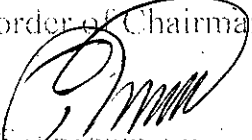


# FORM OF ORDER SHEET

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

Appeal No. 224/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
3	?	3
1	31/01/2024	<p>The appeal of Mr. Maisam Ali resubmitted today by Mr. Hassan U.K Afridi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshi is given to counsel for the appellant.</p> <p>By the order of Chairman  REGISTRAR</p>

The appeal of Mr. Maisam Ali received today i.e on 19.01.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- ✓ Index of the appeal is incomplete.
- 2- ✓ Appeal has not been flagged/marked with annexures marks.
- 3- ✓ Annexures of the appeal are unattested.
- 4- ✓ Memorandum of appeal is not signed by the appellant.
- 5- ✓ Address of appellant is incomplete be completed according to rule-6 of the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 6- Annexures of the appeal are not in sequence be annexed serial wise as mentioned in the memo appeal.
- 7- Ⓣ Page Nos. 20, 31, 36, 39 & 41 of the appeal are illegible.
- 8- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 167 /S.T,

Dt. 24/1 /2024.



REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Hussan U.K Afridi Adv.  
High Court at Kohat.

Re-Submitted  
after completion of the noted  
objection on 31/01/22



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

Service Appeal No. 224/2024

Maisam Ali.....Appellant

**VERSUS**

Inspector General of Police (I.G.P), Khyber Pakhtunkhwa,  
Peshawar & others.....Respondents

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Appellant

Through

Dated 19.01.2024

**Hassan U.K Afridi**

Advocate

Supreme Court of Pakistan

Cell No.0300-9151963

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 10676

Dated 19-1-2024

Service Appeal No. 224/2024

Maisam Ali Son of Riaz Ali  
R/o Ustarzai Payan, District Kohat  
Ex-Constable No.963, Kohat.....**Appellant**

**V E R S U S**

1. Inspector General of Police (I.G.P), Khyber Pakhtunkhwa, Peshawar
2. Deputy Inspector General of Police (D.I.G), Kohat Region Kohat (Regional Police Officer Kohat Region Kohat)
3. District Police Officer (D.P.O), Kohat  
.....**Respondents**

**SERVICE APPEAL UNDER SECTION 4 OF THE  
KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT, 1974, AGAINST THE  
IMPUGNED ORDER VIDE DATED  
24.11.2020 PASSED BY THE RESPONDENT  
NO.3 WHEREBY THE APPEAL FILED BY THE  
APPELLANT BEFORE THE RESPONDENT  
NO.2 DISMISSED ON 22.12.2023, WHILE  
BOTH THE IMPUGNED ORDERS AS  
MENTIONED ABOVE ARE AGAINST LAW  
AND LIABLE TO BE SET ASIDE.**

---

**Prayer in Appeal:-**

On acceptance of this service appeal, the impugned order passed by the respondent No.3 vide dated 24.11.2020 and impugned order passed by the respondent No.2 vide dated 22.12.2023 may kindly be set aside and the appellant please be reinstated in service with all back benefits.

Any other relief, deemed fit and necessary in the given circumstances of the case may also be awarded in favour of the appellant was against respondents

---

**Respectfully Sheweth:-**

Facts of the case

1. That the appellant was appointed as Constable in the police department in District Kohat on 26.07.2007.
2. That from the date of appointment, the appellant performed his duty well and to the entire satisfaction of the authorities.

3. That the appellant was charged in the FIR No.80, dated 24.03.2013, charged under section 302, 109, 34, PPC of Police Station Ustarzai District Kohat.
4. That the charge sheet and statement of allegations have been served to the appellant due to the said criminal case, on 12.04.2013 and after that inquiry was also conducted and according to the finding of inquiry "from the inquiry so far conducted and keeping in view the stage of trial of the instant case, it would be the fitness of things that the decision of the case by Hon'ble Court of law to meet the ends of justice once for all and properly.
5. That the appellant was also suspended due to the above case, vide dated 03.04.2013, but later on the appellant was reinstated vide dated 17.10.2014 and the appellant performed his duty but all of the sudden the appellant again suspended vide dated 16.02.2016 till now.

6. That the trial of criminal case was commenced and the appellant after conclusion of trial, convicted U/S 302 (b) and sentenced to imprisonment for life by the Session Judge, Peshawar vide order dated 13.10.2020.
7. That the appellant filed appeal before the Peshawar High Court Peshawar which was allowed vide dated 28.02.2023 and the case was remanded for fresh decision and the appellant was released.
8. That the appellant then acquitted by the Session Judge, Peshawar vide order dated 16.09.2023.
9. That when the appellant was convicted then the re-inquiry was conducted, after serving charge sheet again to the appellant although the appellant was in jail, but the appellant has been dismissed from the service upon conviction vide dated 24.11.2020.
10. That when the appellant has acquitted from the charges levelled against him vide order dated 16.09.2023, then he filed departmental

appeal on 11.10.2023, which has been rejected on 22.12.2023 while the decision received by the appellant on 29.12.2013, hence this service appeal on the following amongst the other grounds:

**GROUND S:**

- A. That the impugned order passed by the respondent No.3 vide dated 24.11.2020, and impugned order passed by the respondent No.2 vide dated 22.12.2023 are against the law and justice and are liable to be set aside.
- B. That the appellant has not been dealt in accordance with law and rules.
- C. That the disciplinary proceedings initiated against the appellant is not according to law and rules as laid down in service law.
- D. That inquiry was conducted in the year 2013 and according to that inquiry, the fate of the appellant was left over to the decision of the competent court of law.



- E. That the second inquiry was conducted in absence of the appellant, as the appellant was in jail and the appellant has been dismissed on the basis of conviction announced vide dated 13.10.2020, but later on the appellant acquitted from the charge levelled against him vide dated 16.09.2023 but instead of that the departmental appeal has dismissed vide dated 22.12.2023 by the respondent No.2, which is unbelievable and unjust.
- F. That no opportunity of defence has been given to the appellant, in second inquiry, while the second inquiry is against law /rules.
- G. That the second inquiry conducted in absence of the appellant because the appellant was in jail.
- H. That the appellant has acquitted from the above mentioned case, and according to the finding of inquiry officer in the year 2013, the

appellant is very much entitled for reinstatement with all back benefits.

- I. That the delay of filing departmental appeal is due to the prison of appellant in jail and further the appellant waited for the final decision of competent court of law and when the appellant acquitted on 16.09.2023 then he filed departmental appeal on 11.10.2023, because the appellant has been dismissed by the respondent No.3 on the basis of conviction vide dated 13.10.2022.
- J. That the appellant was suspended on 03.04.2023 due to the criminal case, but after inquiry he was reinstated on 17.10.2014, surprisingly he was again suspended on 16.02.2016 and such suspension order is still alive which is against law /rules.
- K. That some other ground may be adduced at the time of arguments with the permission of this Honourable Court.

It is, therefore most humbly prayed on acceptance of this service appeal, the impugned order passed by the respondent No.3 vide dated 24.11.2020 and impugned order passed by the respondent No.2 vide dated 22.12.2023 may kindly be set aside and the appellant ay please be remanded in service with all back benefits.

Any other relief, deemed fit and necessary in the given circumstances of the case may also be awarded in favour of the appellant was against respondents

*M. Sam Ali*

Appellant

Through

**Hassan U.K Afidi**

Advocate

Supreme Court of Pakistan

Dated 19.01.2024

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

Service Appeal No. \_\_\_\_\_/2024

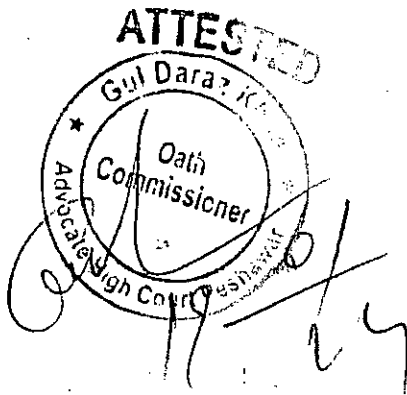
Maisam Ali.....Appellant

**VERSUS**

Inspector General of Police (I.G.P), Khyber Pakhtunkhwa,  
Peshawar & others.....Respondents

**AFFIDAVIT**

I, Maisam Ali Son of Riaz Ali R/o Ustarzai Payan,  
District Kohat Ex-Constable No.963, Kohat, do hereby  
solemnly affirm and declare on oath that the contents of  
the accompanying **Service Appeal** are true and correct  
to the best of my knowledge and belief and nothing has  
been concealed from this Hon'ble Court.



*Maisam Ali*

**DEPONENT**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

Service Appeal No. \_\_\_\_\_/2024

Maisam Ali.....Appellant

**V E R S U S**

Inspector General of Police (I.G.P), Khyber Pakhtunkhwa,  
Peshawar & others .....Respondents

**ADDRESSES OF PARTIES**

**APPELLANT:**

Maisam Ali Son of Riaz Ali  
R/o Ustarzai Payan, District Kohat  
Ex-Constable No.963, Kohat

**RESPONDENTS:**

4. Inspector General of Police (I.G.P), Khyber  
Pakhtunkhwa, Peshawar
5. Deputy Inspector General of Police (D.I.G), Kohat  
Region Kohat (Regional Police Officer Kohat Region  
Kohat)
6. District Police Officer (D.P.O), Kohat



Appellant  
Through

Dated 19.01.2024

**Hassan U.K Afridi**  
Advocate  
Supreme Court of Pakistan



11

 **K.P.K  
POLICE**  
IDENTITY CARD 

Name Moisam Ali  
Designation Constable No 953  
Distt: Kabul  
Sign Issuing Authority [Signature] Stamp Seal Issuing Authority

Lo. Ho(God) is well informed of what you do.

S.No 811/2020 Date of Issue 11-08-2020  
Father's Name Rinaz Ali  
I.C No 14301-4777642-9  
Date of Appointment 26-07-2007  
Identification Mark Mole on face  
Height 5-10 Eyes Brown Blood Gp O+

*[Handwritten signature]*

120

**ORDER.**

This order will dispose of the departmental appeal preferred by Ex-Constable Maisam Ali No. 963 of Kohat district Police against the order of District Police Officer, Kohat whereby he was awarded major penalty of dismissal from service vide OB No. 830, dated 24.11.2020.

Brief facts of the case are that the appellant was awarded major punishment of dismissal from service vide DPO Kohat OB No. 830, dated 24.11.2020 on the allegations of his involvement in a criminal case vide FIR No. 80, dated 24.03.2013 U/S 302,109, 34 PPC, PS Usterzai.

Proper departmental enquiry proceedings were initiated against him and SDPO Hqrs Kohat was nominated as Enquiry Officer. The appellant was served with Charge Sheet and Statement of Allegations. The Enquiry Officer after fulfillment of codal formalities submitted his findings wherein the appellant was found guilty of the charges leveled against him.

Keeping in view the recommendations of the Enquiry Officer and the above cited circumstances, the delinquent officer was awarded major punishment of dismissal from service by the District Police Officer, Kohat vide OB No. 830 dated 24.11.2020.

Feeling aggrieved from the order of District Police Officer, Kohat, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in the office of the undersigned on 19.12.2023. During personal hearing, the appellant denied the allegations leveled against him. However, he could not advance any plausible justification in his defense to prove his innocence.

From the perusal of enquiry file and relevant record, it is patently clear that the appellant has been directly nominated in the above mentioned criminal case. The allegations leveled against the delinquent officer have been established beyond any reason of doubt. Moreover, the appellant has lodged the instant appeal on 11.10.2023 with a delay of 02 years, 10 months and 17days.

Keeping in view the above, I, Sher Akbar, PSP, S.St, Regional Police Officer, Kohat, being the appellate authority, do not find any justification, whatsoever, to interfere with the order passed by the DPO Kohat. Hence, the instant appeal is hereby rejected, being without merit and badly time barred.

Order Announced  
19.12.2023

9236  
19/12/23

  
Regional Police Officer,  
Kohat Region

No. 13418-19 /EC, Dated Kohat the 22 /12 /2023

Copy forwarded to District Police Officer, Kohat for information and necessary w/r to his office Memo: No. 7818/LB, dated 30.11.2023. His Service Record is returned herewith.

2. Ex Constable Maisam Ali No. 963 of district Kohat.

\*\*\*\*\*

CH/ISRE  
22/12/23

13

THE HONOURABLE DEPUTY INSPECTOR GENERAL OF POLICE  
KOHAT REGION KOHAT

APPEAL UNDER RULE 11 OF THE POLICE RULES 1975  
(AMENDED 2014) AGAINST ORDER OF THE WORTHY  
DISTRICT POLICE OFFICER KOHAT DATED 24-11-2020 VIDE  
WHICH THE APPELLANT WAS DISMISSED FROM SERVICE  
WITHOUT ANY LAWFUL JUSTIFICATION.

Respected Sir,

With great respect and veneration, the appellant may graciously be allowed to submit the following for your kind and sympathetic consideration;

Facts of the Case:

1. That the appellant was enrolled as Police Constable in the year 2007 at the District Police Kohat strength.
2. That after enrollment in the Police Department, the appellant worked with dedication and efficiency.
3. That due to the efficiency of the appellant, his senior officers were satisfied and entrusted a number of sensitive duties which he accomplished successfully.
4. That due to his good work the respectable officers awarded a number of commendation certificates and cash rewards.
5. That while performing his official duty satisfactorily, unfortunately, the appellant was falsely charged vide FIR No.80 dated 24-3-2013 U/Ss 302/109/34 PPC PS Usterzai.



6. That as soon as the appellant came to know about the charge, he voluntarily offered his arrest and the Usterzai Police Station accordingly arrested him.
7. That on account of some apprehensions of complainant of the case, the murder case was transferred by the Honourable Peshawar High Court Peshawar to the court of the District & Sessions Judge Peshawar.
8. That though the prosecution case was based on malafide, however; the appellant was awarded punishment of imprisonment for life and fine of two lac rupees vide judgment dated 13-10-2020 by the District and Sessions Judge Peshawar (Copy of the judgment is enclosed)
9. That the appellant subsequent filed appeal against the judgment before the Honourable Peshawar High Court Peshawar.
10. That the Honourable Peshawar High Court Peshawar vide judgment dated 28-2-2023, was pleased to set aside conviction of the appellant and remanded back the case to the trial court for retrial of the case. (Copy of judgment is enclosed)
11. That case of the appellant was re-considered and ultimately vide judgment dated 16-9-2023 the District & Sessions Judge Peshawar was pleased to acquit the appellant. (Copy of the judgment is enclosed)
12. That side by side departmental proceedings were also initiated against the appellant.
13. That appellant while in Peshawar Jail was served with the charge sheet, statement of allegations and lastly, the final show cause notice.
14. That during the enquiry, the enquiry officer though recorded statements in absence of the appellant, however; almost all the

witnesses who were colleagues of the appellant and posted in PS Usterzai on the day of the occurrence have clearly deposed in favour of the appellant and stated that on the day of occurrence i.e. 23-3-2023, the appellant was present in PS Usterzai (Copies of the statements are enclosed)

15. That since evidence was in favour of the appellant, and there was no likelihood of punishment of the appellant, therefore, the then enquiry officer recommended that, the departmental enquiry may be kept pending till the decision of the criminal case against the appellant.
16. That the departmental enquiry was accordingly kept pending however; upon conviction of the appellant for life imprisonment by the District & Sessions Judge Peshawar dt:13-10-2020, the appellant was awarded punishment of dismissal from service by the worthy DPO Kohat vide order dated 24-11-2020. (Copy of the order is enclosed)
17. That after conviction the appellant filed an appeal before the Honourable Peshawar High Court Peshawar. Wherein the conviction was set aside and case was remanded to the District & Session Judge Peshawar (Copy of judgment dated 28-2-2023 is enclosed)
18. That after reconsideration of the case, the Honourable District & Session Judge Peshawar vide judgment dated 16-9-2023 had acquitted the appellant. (Copy of judgment is enclosed)
19. That copy of judgment was issued to the appellant upon his request on 28-9-2023.
20. That just after conviction of the appellant on 13-10-2020, the Police Deptt: on 19-10-2020 had served another charge sheet and ultimately vide OB No.830 dt:24-11-2020, the appellant was

dismissed from service with immediate effect. (Copy of the order is closed)

21. That upon the impugned order the appellant has a number of reservations, hence following are some of the grounds of appeal among the other:

Grounds of Appeal:

- A. That the impugned order of punishment dated 24-11-2020, is not in accordance with law, facts, and evidence on record, hence it is liable to be set aside and the appellant deserves to be reinstated in service from the date of dismissal from service.
- B. That if record is perused, it will indicate that for one offence two proper departmental enquiries were initiated against the appellant. First enquiry was kept pending till the decision of the District Sessions Judge relating to the criminal case registered against the appellant.
- C. That in the earlier departmental enquiry charge sheet was accordingly served upon the appellant while in a separate subsequent enquiry charge sheet was again served upon the appellant.
- D. That in presence of the earlier departmental enquiry, no fresh enquiry was required subsequently. It was incumbent upon the competent enquiry to conclude the earlier enquiry and legally speaking there was no need to open a fresh enquiry.
- E. That under Article 13 of the constitution of Pakistan, it has been made mandatory that for one offence, a defaulter is to be charged once and double jeopardy has been declared un-constitutional.

- F. That by charging the appellant twice for a single offence, the concerned have acted unconstitutionally thus the impugned order is not sustainable in the eyes of law.
- G. That enquiry conducted earlier would show that nearly all the colleagues of the appellant have unanimously stated that on the day and time of occurrence the appellant was present in PS Usterzai for performing his duty.
- H. That by now it has been established from the enquiry and the judgment of Mr. Ashfaq Taj District & Sessions Judge Peshawar who conducted trial of the appellant, that charge of murder against the appellant is false, frivolous, unfounded and fabricated one.
- I. That the Police Deptt: was having only one allegation that the appellant had committed murder and as a result of trial was convicted for life imprisonment.  
Since, the appellant has been acquitted from the charge by the District & Sessions Judge Peshawar, therefore, allegation leveled against the appellant in view of the decision by the court has come to nullity and thus has removed hurdle in way of reinstatement of the appellant in service.
- J. That at present not an iota of evidence is available which could prove that the appellant is directly or indirectly involved in the murder case.
- K. That enquiry was required to be kept pending till the disposal of his appeal by the Honourable High Court and thereafter decision of the trial court who retired the case of the appellant upon order of the high Court and resultantly the appellant was acquitted.
- L. That the Honourable Supreme Court of Pakistan vide its judgment at Page-997 (CS) published in the year 2007, PLJ 2015 (Services) P-208

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and PLC (CS) P-255 2019 the Peshawar High Court Peshawar have unanimously decided that wherever a criminal case is registered against an official/officer the concerned deptt: is required to keep the departmental inquiry pending till decision of the criminal case by the court of competent jurisdiction because till decision of the case every accused is treated as innocent under the law.

In case of the appellant, the authority concerned was required to keep pending till decision of the criminal case. By not doing so and dismissing the appellant in haste, miscarriage of justice with the appellant has been taken place.

M. That even colleagues of the appellant have categorically stated in their statements recorded by the enquiry officer that the appellant on the day and time of occurrence was present in PS Usterzai (place of his posting) for performing his official duty. In presence of such evidence and the acquittal order, the appellant did not deserve to be awarded major punishment of dismissal from service.

N. That though impugned dismissal order was issued in the year 2020 but still the appeal is not time barred because against the conviction the appellant filed appeal before the Hon'able Peshawar High Court Peshawar who was pleased to remand the case to the sessions Judge Peshawar for retrial and as a result of retrial the appellant was acquitted on 16-9-2023 while its attested copy was received on 28-9-2023 and the appellant has filed the instant appeal within 30 days of the acquittal order. Hence, at this score the appeal is deserved to be considered being within the limitation period.

O. That the impugned order of dismissal is a legally defective order, hence it is not sustainable in the eyes of law.

P. That the appellant is absolutely innocent and the opposite party had charged him for the murder case purely on the basis of malafide and

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prejudice so that the appellant may be deprived of his only source of income besides loss of his good reputation.

Q. That being member of the law enforcing agency, the appellant cannot even think / imagine to involve himself in such unlawful, unethical and inhumane act.

R. That the appellant has a large family and in case if the impugned order is maintained, it is likely to land family of the appellant in starvation, sickness and unemployment for the no fault on the part of the appellant:

S. That if deemed proper the appellant may kindly be heard in person.

Prayer:

In view of the above, the impugned order of dismissal of the appellant being legally defective, not in accordance with law, facts and evidence on record and declaration by the court of competent jurisdiction that the appellant is innocent, the impugned order may in the large interest of law, justice and fair play may kindly be set aside and the appellant may kindly be reinstated in service from date of dismissal with all back benefits. The appellant will be highly obliged and he will pray for your long life and prosperity throughout his life for this act of kindness.

Thanking you in anticipation.

Yours Obediently,

*Maisam Ali*

Maisam Ali (Appellant)

Ex-Constable No.963

Resident of Uster Zai Payan District  
Kohat.

Cell No. 0334-8298508

Dated: 11-10-2023.



(20)

**OFFICE OF THE  
DISTRICT POLICE OFFICER,  
KOHAT**

**ORDER**

This order will dispose of a regular departmental enquiry initiated against Constable Mehsam Ali No. 963. (Hereinafter called accused official), under the Khyber Pakhtunkhwa Police Rules, 1975 (amendment 2014)

2. Short facts of the case are that the accused official was charged in criminal court vide FIR No. 80 dated 24/03/2013 u/s 302, 109, 34 PPC PS District Peshawar and facing trial in the court of Sessions Judge Peshawar. On 13/10/2020 it was held that the accused official is convicted u/s 302 (b), 34 PPC and sentenced to the extent of imprisonment for life as tazir and shall pay Rs. 200,000 as compensation to legal heirs of deceased, in default the accused official shall undergo further six months simple imprisonment, vide judgment dated 13/10/2020.

3. The accused official on bail was arrested and confined to Central Prison Peshawar to undergo the sentence. Hence on the above, a charge sheet and statement of allegations was served upon him through Superintendent Central Prison Peshawar, but no reply was received to this office or enquiry officer.

4. The enquiry officer (SDPO HQs) conducted the proceeding accordingly and examined the relevant witnesses. The enquiry officer held the accused official guilty of the charges.

5. In view of above, Final Show Cause Notice alongwith relevant record was served upon the convicted accused official, through Superintendent Central Prison Peshawar, but no reply is received within prescribed period.

6. In view of above and available record, I came to the conclusion that the charges leveled against the accused official have been established beyond any shadow of doubt. Record further indicates that the accused official is ill-reputed. Therefore, I Javed Iqbal District Police Officer Kohat, in exercise of powers conferred upon me under the rules ibid, impose a major punishment of dismissal from service upon convicted constable Mehsam Ali No. 963 with immediate effect. (Kit etc allotted to the accused official) be collected.

DISTRICT POLICE OFFICER,  
KOHAT 24/11

OB No. S 30  
Date 24/11/2020  
No. 5901-05/PA dated Kohat the 24-11-2020

Copy of above for necessary action to the:-

1. Reader/SRC/OHC/L O & Pay officer
2. Convicted Mehsam Ali through Superintendent Jail concerned for information.

**OFFICE OF THE  
DISTRICT POLICE OFFICER,  
KOHAT**

**ORDER**

This order will dispose of a regular departmental enquiry initiated against Constable Mehsam Ali No963, (hereinafter called accused official), under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

2. Short facts of the case are that the accused official was charged in criminal case vide FIR No. 80 dated 24.03.2013 u/ss 302,109, 34 PPC PS Usterzai, Kohat and facing trial in the court of Sessions Judge Peshawar. On conclusion of trial the accused official is convicted u/s 302 (b). 34 PPC and sentenced to the extent of imprisonment for life as tazir and shall pay Rs 200.000/- as compensation to legal hires of deceased, in default the accused official shall undergo further six months simple imprisonment, vide judgment dated 13.10.2020.

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Sd/-

**DISTRICT POLICE OFFICER  
KOHAT**

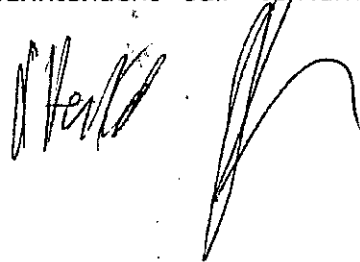
OB No. 830

Date 24.11.2020

No. 5901-04 /PA dated Kohat the 24-11-2020.

Copy of above for necessary action to the:

1. Reader/SRC/OHC/LO & Pay officer.
2. Convicted Mehsam Ali through Superintendent Jail concerned for information.





(21)

محکمہ خواتین و بچوں کی تحریک  
جناب ڈسٹرکٹ پولیس آفیسر صاحب ضلع کوہاٹ صورتیہ کٹرہ  
عنوان: جواب در فائل شوکارز لٹس

جناب عالی!

مردانہ الحاح سے کہ دفتر ہذا سے جناب کی طرف سے سائل کو فائل شوکارز لٹس  
نمبر 5788/PA جو رجسٹرڈ 11-11-2020ء کو وصول ہوا ہے جس کیلئے سائل درج ذیل میں ارسال

ہے کہ سائل کو بحوالہ مقدمہ علت 80 درجہ 24<sup>3</sup>/<sub>2013</sub> جرم 109-302 تھانہ  
اُترزئی میں تیسرے ڈیویداری پر بددیانتی سے چارج کیا گیا۔

ہے کہ سائل کی FIR میں سائل کے بچاؤ اور والد صاحب پر بھی دویداری کی گئی۔

ہے کہ سائل نے اپنے والد کو دویداری پر خود "تھانہ اُترزئی" حاضری کیا۔

ہے کہ سائل بروقت وقوعہ تھانہ موجود تھا اور اس بابت قبل ازیں بھی انکوٹری لوگ جس

میں مدد فرم کیا ابراہیم 1162، کانسٹیبل عاشق پرویز 4225 پلاؤن 2 کینیا نمبر 119،  
کانسٹیبل شہساز 4200، رجسٹریٹر حسین 1501، مسلح الدین 591 LHC وغیرہ کے بیانات

اسی بابت انکوٹری آفیسر نے قلمبند کیے۔ جنکے بیانات کی نقولات لف ہذا میں۔ جبکہ  
روزنامہ سحر سداٹ موجودگی تھانہ بھی لف ہذا میں۔ جو اس بات کا ثبوت ہے کہ سائل  
بے گناہ ہے۔

ہے کہ مدعی مقدمہ جو کہ پاک آرمی میں لیفٹیننٹ کرنل تھے اور جن کو آرمی سے جبری ریٹائرڈ  
ایسی بنا کر کیا گیا ہے، کہ اس نے عدالت پر آرمی ذرائع کی وجہ سے ذاتی انا ہم سنا کر کر کے  
سزا دلوائی ہے۔ جو کہ سائل کے ساتھ بے انصافی کہی گئی ہے۔

ہے کہ سائل نے سزا کے خلاف "پشاور ہائیکورٹ" میں اپیل دائر کی ہے جسکے کاغذات  
بھی لیور فیوت لف ہذا میں۔

ہے کہ مدعی مقدمہ نے ذاتی عناد کی بنیاد پر ہونے والی دویداری کر کے سائل اور سائل کے  
خاندان کو دشمنی کی جھنڈ پڑھا کر ناقابل تلافی نقصان پہنچا ہے۔ جبکہ سائل اور  
سائل کا والد مقدمہ ہذا میں بے گناہ تھے۔ مگر مدعی مقدمہ نے عدالت میں اپنے الزام

(22) ہر دباؤ کے تحت سزا دلوائی ہے۔ حالانکہ اس میں سائل کا بچا ذوالفقار علی عرف بھٹو باعزت بری سمجھا گیا ہے۔

یہ کہ سائل ایک پریس سماجی ہے۔ اور سائل اپنے "تفہیم" کے حرم کا سچو بھی نہیں سمجھتا۔  
 یہ کہ سائل کے خلاف قبل ازیں انگریزی سائل کی سنگٹھی کا مقدمہ چل رہا ہے۔ اور جہاں تک عدالتی سزا اور سزا باز کا رقبہ ہے "انشاء اللہ العزیز" عدالت عالیہ یا کورٹ میں اپنی سے کچھ ہی ثابت کر کے افسران بالا کو فوری مطلع کروئے گا۔ سائل کی فیصلہ پہل تک سائل کو یہ کچھ ہی ثابت کرنے کے لئے وقت دیا جاوے گا۔

العارض

سائل کا ٹیلیفون نمبر علی نمبر 963 ضلع کوہاٹ  
 M. Sami  
 24/11/2020

R. Sir

Application has been forwarded  
 for further order please

M. Sami

24/11/2020



OFFICE OF THE  
DISTRICT POLICE OFFICER  
KOHAT

Tel: 0922-9260116 Fax 9260125

23

No. 5788 /PA dated Kohat the 18/11/2020

### FINAL SHOW CAUSE NOTICE

1. I, Javed Iqbal, District Police Officer, Kohat as competent authority, under the Khyber Pakhtunkhwa Police Rules 1975, (amended 2014) is hereby serve you, Constable Mehsam Ali No. 963 as follow:-

i. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing vide office No. 5148-49/PA dated 19.10.2020.

ii. On going, through the finding and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer.

I am satisfied that you have committed the following acts/omissions, specified in section 3 of the said ordinance.

- a. That you were charged in a heinous crime vide FIR No. 80 dated 24.03.2013 u/ss 302,109,34 PPC PS Usterzal.
- b. That on conclusion of trial, you are convicted u/s 302 (b), 34 PPC and sentenced to the extent of imprisonment for life as tazir and shall pay Rs: 200,000/- as compensation to legal hires of deceased, in default you shall undergo further six months simple imprisonment vide Sessions Judge, Peshawar Judgment dated 13.10.2020.
- c. That as per record you are ill-reputed.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you one of the major penalty provided under the Rules ibid.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within 07 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.

5. The copy of the finding of inquiry officer is enclosed.

*[Handwritten signature]*

*[Handwritten signature]*  
DISTRICT POLICE OFFICER,  
KOHAT

24

**DEPARTMENTAL ENQUIRY AGAINST CONSTABLE MEHSAM**

**ALI NO. 963**

The subject enquiry was referred to this office in the capacity as enquiry officer vide order of enquiry bearing endst: No.5148-49/PA dated 19.10.2020, to ascertain the alleged charge of misconduct on the part of above mentioned Constable with the following allegations; -

- i. ***That you were charged in a heinous crime vide FIR No.80 dated 24.03.2013 u/s 302, 109.34.PPC PS Usterzai.***
- ii. ***That on conclusion of trail, you are convicted u/s 302 (b), 34 PPS and sentenced to the extent of imprisonment for life as tazir and shall pay Rs: 200,000/- as compensation to legal hires of deceased, in default you shall undergo further six months' simple imprisonment vide Sessions Judge, Peshawar dated 13.10.2020***
- iii. ***That as per record you are ill-reputed.***

The undersigned conducted an enquiry to find out the actual facts regarding the above mentioned allegations.

For scrutinizing the conduct of defaulter prisoner accused Constable Mehsam Ali No. 963. In this regard letter dispatched to Superintendent of Central, Prison Peshawar with enclosed charge sheet and summary of allegations for serve upon the convicted accused Mehsam Ali (Constable) Vide letter Memo No.5154/PA dated 19.10.2020. (copy annexed), reply of delivering charge sheet and summary of allegations upon the convicted prison Mehsam Ali received on 02.11.2020 from concern Jail Peshawar. (copy annexed), but no response has been received yet. Second reminder also dispatched to Superintendent of Central, Prison Peshawar for charge sheet reply vid this office Memo No 656 PA-reader, but no response has been received yet despite the reminder.

During the inquiry to determine facts. In the regard the following Police officers the then SHO Mujtaba Khan PS Usterzai, O.II Azam Khan PS Usterzai, DSB Incharge and also complainant (Lt. Col Abass Ali Bangash) were summoned for personal hearing.

All the concerned of the case were heard in person and their statements were recorded (placed in file for ready reference). They in their written statements supported the version of case FIR No.80 dated 24.03.2013 u/s 302, 109.34.PPC PS Usterzai. Complainant (Lt. Col Abass Ali Bangash) of the case, telephonically contacted who corroborated the version of his application in his statement. (Which is already placed in inquiry file)

Further that the concern branches also summoned to provide the previous punishments orders and inquires finding which was held against the prisoner accused Mehsam Ali (copies annexed). In is pertinent to mentioned here that prisoner accused Mehsam Ali was dismissed from the service vid OB No. 426 dated 04.05.2017 due to involvement in case FIR No. 37 dated 06.02.2017 u/s 302/311/148/149/ PPC PS Usterzai for the murder of Hina Shanawaz by the crystal inquiry findings of DSP Legal. (copies annexed).

In the instant case prisoner Constable Mehsam Ali No. 963 have faced trail for the offence...

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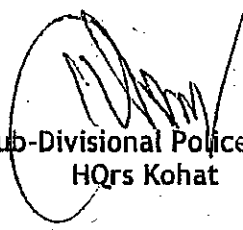
mer that the instant case transferred to the Court District & Session Judge Peshawar, on complainant Abbas Ali Bangash where "Life Imprisonment" has been announced to accused Constable Mehsam Ali No. 963 (Judgement Session Court Peshawar enclosed).

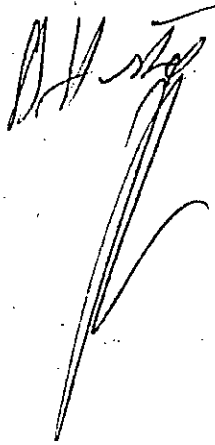
Foregoing in view the above and bare perusal Judgment of Session Court Peshawar, all the relevant record placed in inquiry file clearly shows that the charges levelled against prisoner Constable Mehsam Ali No. 963 fully established/proved. Hence he is recommended for Major Punishment please.

Inquiry report is enclosed with all relevant documents submitted for favour of perusal please.

(Enclosure 66...)

No 673 /PA-Reader Dated 11.2020.

  
Sub-Divisional Police Officer,  
HQrs Kohat





Office of the  
District Police Officer,  
Kohat

283

No 5148-49/PA

Dated 19-10/2020

CHARGE SHEET

I, MR. JAVED IQBAL, DISTRICT POLICE OFFICER, KOHAT,  
as competent authority under Khyber Pakhtunkhwa Police Rules  
(amendments 2014) 1975, am of the opinion that you Constable Mehsam Ali  
No. 963 (recently re-instated in service) has rendered yourself liable to be  
proceeded against, as you have committed the following act/omissions within  
the meaning of Rule 3 of the Police Rules 1975. (amended 2014)

- i. That you were charged in a heinous crime vide FIR No. 80 dated 24.03.2013 u/ss 302, 109, 34 PPC PS Usterzai.
- ii. That on conclusion of trial, you are convicted u/s 302 (b), 34 PPC and sentenced to the extent of imprisonment for life as tazir and shall pay Rs: 200,000/- as compensation to legal hires of deceased, in default you shall undergo further six months simple imprisonment vide Sessions Judge, Peshawar Judgment dated 13.10.2020.
- iii. That as per record you are ill-reputed.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Rules ibid and have rendered yourself liable to all or any of the penalties specified in the Rule 4 of the Rules ibid.

3. You are, therefore, required to submit your written statement within 07 days of the receipt of this Charge Sheet to the enquiry officer.

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

4. A statement of allegation is enclosed.

DISTRICT POLICE OFFICER  
KOHAT 19/10/20



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OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
CENTRAL POLICE OFFICE, PESHAWAR

**ORDER**

Constable Musam Ali No. 1103 of District Police Kohat on deputation to CTD KPK, Peshawar is hereby repatriated to his parent District Kohat on account of being involved in murder case. His case is under trial. He is hereby suspended with immediate effect.

He will not be posted at other Units / Districts till the decision of the Court.

*Najeeb*

(NAJEEB-UR-REHMAN BUGVI) PSP  
AIG/Establishment  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

No. 1950-52 /E-IV dated Peshawar the 16/02/2016

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

1. Deputy Inspector General of Police, Kohat Region, Kohat.
2. Deputy Inspector General of Police, CTD KPK, Peshawar.
3. District Police Officer, Kohat.

*[Signature]*

ORDER

28

Constable Masam Ali No.1502 of Elite Force Khyber Pakhtunkhwa is hereby suspended being charged vide case FIR No.80 dated 24.03.2013 U/S 302/34 PPC Police Station Usterzai with immediate effect.

*M. Quraish Khan*  
(MUHAMMAD QURAISH KHAN) P.S.P  
Deputy Commandant  
Elite Force Khyber Pakhtunkhwa Peshawar

No. 4943-48 JEF Date: 03/04/2013

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

1. Superintendent of Police Investigation Wing, Kohat.
2. Superintendent of Police Elite Force, HQrs Khyber Pakhtunkhwa, Peshawar.
3. Deputy Superintendent of Police Elite Force Kohat.
4. Account Elite Force, Khyber Pakhtunkhwa Peshawar.
5. OASI/SRC Elite Force, Khyber Pakhtunkhwa Peshawar.

*in/OC*  
*Pls m/h M*  
*30/3*  
*3/4/13*

*M. Quraish Khan*



Elite Force Khyber Pakhtunkhwa Peshawar



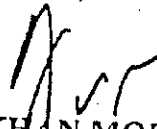
29

No. 15293-98/EF

Dated: 17.10.2014


ORDER


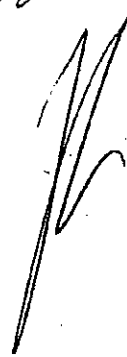
Constable Meisam Ali No. 1502, of Elite Force Khyber Pakhtunkhwa is hereby re-instated in service from the date of suspension, as he was allegedly involved in case FIR No.80, dated 24.03.2014 U/S 302/34 PPC Police Station Usterzai district Kohat.

  
(SAJID KHAN MOHMAND)  
Deputy Commandant  
Elite Force Khyber Pakhtunkhwa Peshawar.

Copy of above is forwarded to the:-

1. DIG/CTD, Khyber Pakhtunkhwa Peshawar.
2. Acting Superintendent of Police, Elite Force Headquarters Peshawar.
3. Acting Deputy Superintendent of Police, Elite Force Kohat.
4. Deputy Superintendent of Police, Elite Force Mardan.
5. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
6. OASI, Elite Force Khyber Pakhtunkhwa Peshawar.
7. SRC, Elite Force Khyber Pakhtunkhwa Peshawar.

Rifaqat  
For m/r.  
  
SRC 20/14

11  
12  
13  
14

Leave taken:- nature and duration and rate of leave salary drawn, with the initials of the attesting officer

reference to any records, punishment or censure, reward or praise of the Government servant as well as to any interruption in service. If suspended whether period of suspension will count towards leave and pension with signature of the attesting officer

Remarks

30



A1 Examination Roll

Selected A1 Examination and his name is hereby brought on Promotion list A1 vide DPO, Kohat Endst No. 10350-54/SRC, dated 2/11/2011 and vide this office No. 4776 dated 5-11-11

10 2014

is hereby case FIR

*[Signature]*  
COMMANDANT,  
ELITE FORCE  
Khyber Pakhtunkhwa, Peshawar

has

Order

Transferred and posted to CTD KPK vide PPO KPK Peshawar order endst: NO 21-23/E IV dt 8-9-2014

*[Signature]*  
CMDT,  
ELITE FORCE  
Khyber Pakhtunkhwa, Peshawar

S.V.C

Service was 01-6-9 to 30-9-14  
has been verified from ACO Rolls & Pay  
Roll kept in this office on record

*[Signature]*  
For Commandant  
Elite Force, K.P.K.  
Peshawar

FINDING

IN DEPARTMENTAL ENQUIRY AGAINST CONSTABLE MESAM ALI  
NO: 1502.

This finding would dispose off departmental enquiry against the above name officer. Allegations were that he was involved in case FIR No:80 dated 24-3-2013 under section 302/34ppc PS Usterzai.

The undersigned was appointed as enquiry officer, to probed into the mater.

Enquiry proceedings were accordingly adapted. Summoned, his colleagues, IO of the case PW, s MHC, s Staff of the respective police station, heard in person, and recorded their statement case file was thoroughly persused.

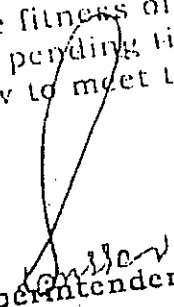
Statement of the defaulter constable was also recorded. constable Nazim Ullah No:4252 (colleague of defaulter constable) stated that on 23-3-2013, he was on petrolling duty in the mobile of PS Usterzai duly parked in front of PS Usterzai. Meanwhile he heard a report of firing, he at once went in the PS to informed his colleagues and incharge. There Mesam Ali was also present amongst the other constables. After wards the went to hospital with SHO.

Constable Wajahat Hussain No. 1501, Ashiq Pervez No:4245, Madad Moharrar, Mian Ibrar Hussain No:0203 & Madad Moharrar Salauddin 591 approximately corroborated the version of the above mentioned constable Mesam Ali stated that he is innocent & falsely charged in the above mentioned case.

In his self defence he stated that the crime empties recovered from the spot of occurrence were sent to laboratory from where it is opined that all the ~~three~~ have been made from one striker while initially three persons have been charged for the alleged offence which indicating suspicion on the case. Besides the deceased was having so many civil cases with various persons of the area. May be someone has killed him due to above reasons. Case file has thoroughly been persused.

From the enquiry so far conducted & keeping in view the stage of trial of the instant case, it would be the fitness of things that the enquiry in hand may be ordered to be kept pending till the decision of the case by Honourable court of law to meet the ends of justice once for all and properly.

Submitted please.

  
Dy: Superintendent of Police  
Elite Force, Kohat.

ATTSTED.

**FINDING**

**IN DEPARTMENTAL ENQUIRY AGAINST CONSTABLE MESAM ALI NO.1502.**

This finding would dispose off departmental enquiry against the above name officer. Allegations were that he was involved in case FIR No. 80 dated 24.02.2013 under section 302/34 PPC PS Usterzai.

The undersigned was appointed as enquiry officer, to probed into the matter.

Enquiry proceedings were accordingly adopted. Summoned, his colleagues, IO of the case PW,s MHC,s staff of the respective police station, heard in person, and recorded their statement case file was thoroughly perused.

Statement of the defaulter constable was also recorded. Constable Nazim Ullah No.4252 (Colleagues of defaulter constable) stated that on 23.03.2013, eh was on patrolling duty in the mobile of PS Usterzai duly parked in front of PS Usterzai. Meanwhile the heard a report of firing he at once went to the PS to informed his colleagues and Incharge. There Mesam Ali was also present amongst the other constables. After wards the went to hospital with SHO.

Constable Wajahat Hussain No.1501, Ashiq Pervez No.4245, Madad Moharrar, Mian Ibrar Hussain No.6203 and Madad Moharrar Salauddin 591 approximately corroborated the version of the above mentioned constable Mesam Ali stated that he is incorrect and falsely charged in the above mentioned case.

In his self defence he stated that the crime empties recovered from the spot of occurrence were sent to Laboratory from where it is opined that all the fires have been made form one Striker while initially three persons have been charged for the alleged of offence which indenting suspicious on the case. Besides the deceased was having so many civil cases with various persons of the area. May thoroughly been perused.

From the enquiry so for conducted and keeping in view the stage of trial of the instant case, it would be the fines of things that enquiry in hand may be ordered to be kept pending till the decision of the case by Hon'ble Court of law to meet the ends of justice once for all and properly.  
Submitted please.

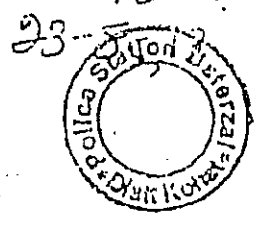
**ATTSTED**

Sd/-  
Dy: Superintendent of Police  
Elite Force, Kohat

بیان امر  
عدد خبر حیاں ابرار حین 1162 تھا آسترزی

ان گشتیں کنڈ میں تھا اس وقت (3) میں راجہ پر عدد خبر گشتات  
یہ تو رفتہ 23 کو گشت شد علی 1502 دن کو گشت دویم  
12:05 بجے تا 18:00 بجے تک ڈپوٹی سر انجام دی تاکہ جیک رات  
12:05 بجے گشت کیے کنڈ قندگرو بالا کو میں نے باری کنڈان  
سے اٹھا کر ڈپوٹی کیے تھا تاکہ باقی میں نے علم نوجو بہ فرمایاں کہ

مسال  
1777  
14M-PS-UST



DH  
[Signature]



موصوفہ 23<sup>ویں</sup> کو میں کانسیٹیل ٹیچر ٹرانسفر 3000 مع کانسیٹیلان عاشق پرویز درجانتی ہر  
دیں  
میشم علی سے تمناہ استعززی موجود تھا کہ رات کیوت فائرننگ کی آواز آئی جس

پر میں نے کانسیٹیل میٹم علی سے کہا کہ آپ کے مائٹ کی طرف سے فائرننگ کی آواز آئی ہے  
جس پر منکرہ بالا کانسیٹیل نے کہا کہ بیمار ہوا اس میں ٹوریز کے دن ہیں اس کی

خوشی میں لگت فائرننگ وغیرہ کرتے ہیں یہ کہتا ہے یہ فائرننگ اس خوشی میں ہوتی ہے  
تو یہ آ رہے گئے بعد کانسیٹیل ناظم انٹرکس موبائل گنٹ اول ڈیوٹی تھی بارک میں

اگر فاطمہ ہوا کہ سب جلدی جلدی وری ہینو ایر جیسی ہے ہم گزرنے ایر جیسی  
کی وہم دریافت کی تو منکرہ بالا کانسیٹیل نے بتایا کہ علاقے میں کہیں تیلی ہوا ہے۔

یہ سنا ہے 9/10  
5/10  
میں انٹرنیشنل انعام آ رہا ہے سب ایسے ہی ہیں جیسے کانسیٹیل میٹم کی

ہم کی موبائل گنٹ ڈیم ڈیوٹی تھی ڈیوٹی کی کیا ہے ریڈ کے مطابق دو گنٹ گنٹ  
تمناہ سے روانہ ہوئے۔ تمناہ فدا انسر ان جو بالا کی خدمت میں ارسال ہے

دستخط ہے







بیان انجیل ناظم اللہ 252 پلاٹن نمبر ہائیکلیز 18 صلح کوکھاٹ

بدریافت بیان کیا کہ میں صفا بیان دیتا ہوں کہ مورخ  $\frac{23}{13}$  کو وہی  
مورخ ہائیکلیز کہتا تھا۔ مورخ ہائیکلیز کا نام تھا کہ اسٹریزی کے باہر ساہی ٹوی تھا  
کہ اسی دوران اچانک فائرنگ کی آواز سنی دی۔ ایاز کے مورخ ہائیکلیز اول  
تعمانہ کے اندر تھا۔ میں ایاز کے نوٹس میں (دئے ایاز کے پاس تھا  
کہ علاقہ میں فائرنگ ہوئی ہے۔ اس کے بعد میں ایلیٹ باریک  
کیا تاکہ حملہ نفی کو انکار کر سکوں کہ اپنی موجودگی تعانہ کے اندر ہی  
رکھے۔ علاقہ میں کہیں فائرنگ ہوئی ہے۔ چھاپہ لگانے کے لئے ایلیٹ  
نفی کو کئی لمبی وقت کمال کیا جاسکتا ہے۔ جب ایلیٹ باریک میں  
داخل ہوا۔ ٹو کائیل عاشق پورہ کسٹیل وجاہت حسین۔ کسٹیل حافظ  
محمد عامر۔ اور کسٹیل مستم علی۔ کو باریک کے اندر موجود پایا۔ اس  
کے بعد علی پورہ تعانہ 5440 ماہ دیگر نفی کے ہسپتال اسٹریزی روانہ  
ہوئے۔ بعد ازاں اول کسٹیل میں نے اپنی آنکھوں سے کسٹیل مستم علی  
کو دوسری مورخ ہائیکلیز ڈیوٹی کرنے دیکھا۔ دوران وقوع کسٹیل  
مستم علی تعانہ باریک کے اندر موجود تھا۔ یہ میرا بیان ہے۔  
جو کہ حقیقت پر مبنی ہے

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بیان ادا

محمد صدیق الدین 591  
LHC

بیان گشتیوں کے ہیں اہلیانہ استرزی میں بطور مدد گزرا احتیاط  
 طور پر 23/3 کو محمد رضا رحمت پر تھا۔ میں بطور محمد ڈیوٹی سرکاری  
 دیکھا گیا ہو۔ 3/3 کو کھیل میں علی نے آ کر دن کو گشت دہم دیا۔  
 18/3 کو ڈیوٹی کی ہے رات کو گشت دہم کئے دن 12/3 تا 16/3  
 کی گشت ڈیوٹی انجام دی ہے باقی میں با علم آتوں سے بیان ہے

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 H.M. P.S. 44  
 23-5-13



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بیان ادا

محمد صالح الدین 591  
LHC سائنس اسٹریٹی

بیان کیا گیا ہے کہ میں اٹھپانہ اسٹریٹی میں ایبوری پور محمد صالح الدین سے  
دور 23/3/2013 کو محمد صالح الدین کے پاس گیا اور اس سے  
دشوارہ دور 3/3/2013 کو کھیل میں علی 15:15 اور گشت دوم 12:12  
18:18 اور گشت اولیٰ کی رات کو گشت دوم کیے 12:12 اور 18:18  
یہ گشت اولیٰ اور گشت دوم کے باقی میں لا علم ہوا ہے یہ سب اسی سے

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M.M. P.S. 4A  
03-5-13



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مارنگ پورٹ

تاریخ	مقام	نمبر	نمبر	نمبر	نمبر	نمبر	نمبر
		1	12	2	2	1	
		1					1
		2	12	2	2	1	2

تاریخ و وقت	خلاصہ رپورٹ
7-13-37	<p>پہلے وقت 08:00 صبح میں اس وقت روزنامہ اخبارات کی...</p> <p>مقامی اخبارات کی...</p> <p>...</p>
7-13-37	<p>...</p> <p>...</p> <p>...</p>

*[Handwritten Signature]*



کنسٹیب آف

29-13



15 والاہی تھنی علی دہلوی مورخ  $\frac{3}{13}$  بجے پلا صفت 15:00 سے 16:00 تک میں سید علی بابا نے کہا کہ میں نے اسے لہانہ سے لے کر ایف کے گھنٹے  
 علاقہ والیں آیا بعد ازاں گھنٹے اطلاع ملی کہ ایک شخص نے آواز لے کر کہا کہ میں نے اسے لہانہ سے لے کر ایف کے گھنٹے  
 محمد علی بندش موجود تھا کہ اس کی کاغذات سرگن تھیں ان کا نام مبارک والا ہے  
 ڈاکٹر صاحب کی جنمبول سے پتہ چلا کہ اس نے 27/11/13 کو پورے لہانہ  
 اطلاع دی کہ میں نے پورے لہانہ سے لے کر ایف کے گھنٹے  
 ایف کے گھنٹے میں ڈاکٹر صاحب سے لے کر ایف کے گھنٹے  
 میں نے لہانہ سے لے کر ایف کے گھنٹے  
 پورے لہانہ سے لے کر ایف کے گھنٹے  
 ڈاکٹر صاحب سے لے کر ایف کے گھنٹے  
 لہانہ سے لے کر ایف کے گھنٹے  
 ڈاکٹر صاحب سے لے کر ایف کے گھنٹے  
 لہانہ سے لے کر ایف کے گھنٹے  
 ڈاکٹر صاحب سے لے کر ایف کے گھنٹے  
 لہانہ سے لے کر ایف کے گھنٹے

16 ڈاکٹر صاحب نے لہانہ سے لے کر ایف کے گھنٹے  
 میں نے لہانہ سے لے کر ایف کے گھنٹے  
 ڈاکٹر صاحب سے لے کر ایف کے گھنٹے  
 لہانہ سے لے کر ایف کے گھنٹے  
 ڈاکٹر صاحب سے لے کر ایف کے گھنٹے  
 لہانہ سے لے کر ایف کے گھنٹے

17 والاہی تھنی علی دہلوی مورخ  $\frac{3}{13}$  بجے پلا صفت 16:00 سے 17:00 تک میں نے لہانہ سے لے کر ایف کے گھنٹے  
 ڈاکٹر صاحب سے لے کر ایف کے گھنٹے  
 لہانہ سے لے کر ایف کے گھنٹے  
 ڈاکٹر صاحب سے لے کر ایف کے گھنٹے  
 لہانہ سے لے کر ایف کے گھنٹے

18 ڈاکٹر صاحب نے لہانہ سے لے کر ایف کے گھنٹے  
 میں نے لہانہ سے لے کر ایف کے گھنٹے  
 ڈاکٹر صاحب سے لے کر ایف کے گھنٹے  
 لہانہ سے لے کر ایف کے گھنٹے  
 ڈاکٹر صاحب سے لے کر ایف کے گھنٹے  
 لہانہ سے لے کر ایف کے گھنٹے

19 ڈاکٹر صاحب نے لہانہ سے لے کر ایف کے گھنٹے  
 میں نے لہانہ سے لے کر ایف کے گھنٹے  
 ڈاکٹر صاحب سے لے کر ایف کے گھنٹے  
 لہانہ سے لے کر ایف کے گھنٹے  
 ڈاکٹر صاحب سے لے کر ایف کے گھنٹے  
 لہانہ سے لے کر ایف کے گھنٹے

28-3-13

AT end







جناب عالی!

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Muhammad

بجواب آئی ایچ آر ایف ڈی نمبر 70-5467 مورخہ 12-04-2013 تاریخ 12-04-2013 کا ٹرانس صاحب ایلیٹ فورس KPK اور کے معروض ہوں کہ میں  
کنسٹیبل 1502 میٹم علی ولد ریاض علی سکندر استریکی بیان بوجوالہ قدمہ نمبر 80 مورخہ 24-03-2013 جرم PPC 302/109/34 تھانہ استریکی  
میں میرے والد ریاض علی اور چچا مظہر علی ذوالفقار علی عرف چٹو پسران ذوالفقار علی ساکنان دیہہ نام کو مدعی مقدمہ میجر عباس علی ولد علی محمد سکندر دیہہ نام حال آرمی میجر  
GHQ ہیڈ کوارٹر راولپنڈی نے بے گناہ والد راہ متول علی محمد کے قتل کرنے کی دعویداری کر کے مقدمہ درج تھانہ کیا۔

بروز وقوعہ والد نام اپنی رہائشی گھر سیرنگ دیلی کو ہات نہ لگنے۔ اس باہت باقاعدہ گواہان موجود ہیں۔ اور میں تقریباً چھ ماہ سے انہیں پانچ ماہ سے  
ساتھ حسب الحکم افسران بالا تھانہ استریکی میں تعینات تھا۔ میجر عباس علی نے 24-03-2013 میں پھر نام نہیں لیا ہے۔ جبکہ میرے دو چچا گان  
اور والد نام پر دعویداری کی ہے۔ اور پھر 7 دن بعد مورخہ 30-03-2013 کو بیان زیر دفعہ 164 CrPC میں مجھ پر دعویداری کی گئی ہے۔ یہ کہ وقوعہ  
ذوالفقار علی نے کیا ہے۔ جبکہ FIR میں کوئی چشم دید گواہ کا ذکر نہیں ہے۔ جبکہ وقوعہ اور دات سے جو خول پولیس نے برآمد کیے ہیں لیبارٹری رپورٹ کے مطابق  
ایک Stricked ہت ہیں جبکہ ابتدائی رپورٹ میں 3 گواہان پر دعویداری کی گئی ہے جو کہ لیبارٹری رپورٹ سے قطعاً ثابت ہوئی۔ یہ کہ پولیس نے  
گرفتاری کے بعد میری سرکاری کلاسکوف میں اپنی تینے میں لی اور لیبارٹری رپورٹ میں بھی وہ بالکل صاف ہے۔ یہ کہ مقتول کے ساتھ علاقے کے کئی لوگوں  
کے دیوان اور فوجداری مقدمات عدالت میں زیر سماعت ہیں۔ بروز وقوعہ میں مورخہ 23-03-2013 کو دن 12 بجے سے شام 6 بجے موہاں گشت پر تھا۔  
ڈیوٹی کے اختتام پر تھانہ میں اپنے ہارک کنسٹیبلان عاشق پرویز محمد، عامر وجاہت حسین اور عالم اللہ کے ساتھ اپنی بارک میں موجود تھا۔ اور میری ڈیوٹی رات  
12:00 بجے سے صبح 6:00 بجے تک ڈیوٹی لگائی گئی تھی۔ اور میں ہارک میں سو گیا۔ رات 12:00 بجے مجھے تھانہ کے نشی نے 12 بجے کے قریب ڈیوٹی کے  
لیے ابھرایا۔ اور میں رات بھر ڈیوٹی پر تھا۔ میری موجودگی کے حقائق میرے ہارک کنسٹیبلان گواہ ہیں۔ علاوہ ازیں میجر عباس علی جو مقتول کا بیٹا ہے۔ نے مقامی  
پولیس SHO تھانہ اور دیگر افسران بالا کو اپنے آرمی آفیسرز جنیلو GHQ کے سروس پر چنگ کر کے اور ان کے ہی اپروچ پر میرے والد کے ڈسٹرکٹ جیل میں  
IMI لٹکاران سے فونو گرائی کروائی۔ اور ہڈیوں موہاں میری گرفتاری کے دوران حالات تھانہ میں فونو گرائی کی اور اپنی بہنوں کو دیکھا کہ جو رشتہ میری رشتہ دار  
بھی ہیں۔ میرے اور میرے والد صاحب کی جیل میں شناخت پریڈ کر لائی۔

یہ کہ میجر نے ہمیں مقدمہ میں بری طرح ہتھیایا ہے۔ مقامی پولیس میجر کے اپروچ کی وجہ سے میری تھانہ میں موجودگی اور گواہان ہارک کنسٹیبلان  
کے بیانات نہیں لے رہی ہے۔ جس کا مجھے بہت دکھ اور رنج ہے۔ میرے اور میرے والد صاحب کے ساتھ بہت ناانصافی کی جا رہی ہے۔ مجھے آرمی میجر نقصان  
دینے کے درپے ہے اور مجھے جیل میں بند کر دیا کہ بے گناہ لڑا ہے۔ میری انفرادیت، دل لاکھی نہیں ہے۔ میں اور میرے والد صاحب مقدمہ میں بے قصور ہیں۔  
انشاء اللہ مقدمہ میں جلد اپنی بے گناہی ثابت کروں گا۔ میں ایلیٹ فورس کا مجھ پر ایسا کٹھاؤ تا جرم نہیں کر سکتا۔ صرف افسران بالا سے اتنی انتہاس کرتا ہوں کہ  
میرے اپنے ایلیٹ فورس بابت اور کسی ایسے ایماندار افسر سے انکو اتنی بے گناہی لکھوائی گئی ہے جو میجر یا آرمی افسران کے دہاؤ میں نہ آتا ہو اور حق لکھتا ہو۔ برائے  
مہربانی میرے حال پر رحم فرمایا جائے۔

مورخہ 23-04-2013

لٹوم کنسٹیبل میٹم علی 1502 ایلیٹ فورس کیمپی نمبر 19

مال ڈسٹرکٹ جیل کوہاٹ  
Muhammad

Muhammad

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### SUMMARY OF ALLEGATIONS

I, Muhammad Quraish Khan, Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar as competent authority, am of the opinion that Constable Masam Ali No. 1502, company No. 19 has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Police Rules (amended vide NWFP gazette, 27<sup>th</sup> January 1976).

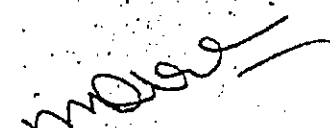
### SUMMARY OF ALLEGATIONS

He was involved in case FIR No. 80, dated 24.03.2013 U/S 302/34 PPC Police Station Usterzai district Kohat.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations Mr. Syed Hashmat Ali Zaidi SP Elite Force Kohat is appointed as Enquiry Officer.

3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (25 days) after the receipt of this order.


4. The accused shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

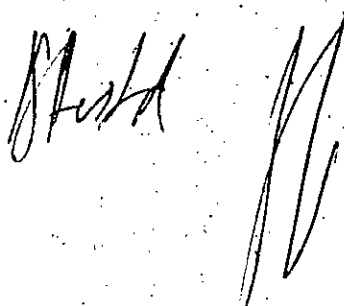
  
(MUHAMMAD QURAIISH KHAN) P.S.P  
Deputy Commandant  
Elite Force Khyber Pakhtunkhwa Peshawar.

No. 5467-70 M.F. dated Peshawar the 12/04/2013.

Copies to:

1. Superintendent of Police, Investigation wing, Kohat w/r to his letter No. 1057/GC, dated 01.04.2013.
2. Superintendent of Police, Elite Force Kohat.
3. SRC, Elite Force Khyber Pakhtunkhwa Peshawar.
4. Constable Masam Ali No. 1502 through reader SP/Elite Force Kohat.

  
(MUHAMMAD QURAIISH KHAN) P.S.P  
Deputy Commandant  
Elite Force Khyber Pakhtunkhwa Peshawar.



(44)

## CHARGE SHEET

I, Muhammad Quraish Khan, Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar as competent authority, hereby charge you Constable Masam Ali No. 1502, Company No. 19 of Elite Force as follows:

You were involved in case FIR No. 80, dated 24.03.2013 U/S 302/34 PPC Police Station Usterzai district Kohat.

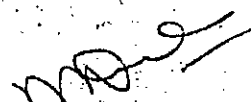
By reason of the above, you appear to be guilty of misconduct under the Police Rules (amended vide NWFP gazette, 27<sup>th</sup> January 1976) and have rendered yourself liable to all or any of the penalties specified in the said rules.


3. You are, therefore, directed to submit your defense within seven days of the receipt of this Charge Sheet to the Enquiry Officer.


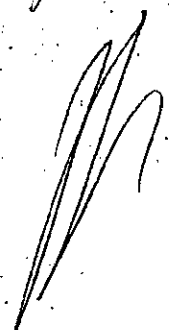
4. Your written defense, if any, should reach the Enquiry Officer within the specified period, failing which, it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.

5. You are directed to intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.

  
(MUHAMMAD QURAIISH KHAN) P.S.P  
Deputy Commandant  
Elite Force Khyber Pakhtunkhwa Peshawar.

18-4-13 

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**BEFORE THE COURT OF MUHAMMAD YOUNAS  
SESSIONS JUDGE, PESHAWAR.**

Case No. 02/SC of 2014  
Date of Institution in District Kohat: 24/10/2013.  
Date of transfer to this court: 25/03/2014.  
Date of Decision: 13/10/2020.

State Versus

- 1) Riaz Ali s/o Nadar Ali,
- 2) Maisam Ali s/o Riaz Ali,
- 3) Zulfiqar Ali alias  
Bhutto s/o Nadar Ali all  
r/o Ustarzai Payan,  
Tehsil & District Kohat.  
.....(on bail)
- 4) Mazhar Ali s/o Nadar  
Ali r/o Ustarzai Payan,  
Tehsil & District Kohat.  
.....(absconding)

13 OCT 2020

Attested to be true copy  
[Signature]

FIR No. 80.  
Dated: 24/03/2013.  
Sections: 302/34/109 PPC  
Police Station: Ustarzai, Kohat.

**JUDGMENT:**

Needless to mention here that initially instant case was submitted for trial before the learned Sessions Judge, Kohat. However, on application of complainant Abbas Ali Bangash, the Hon'ble Peshawar High Court, Peshawar transferred the case to this court vide valued judgment dated: 14/03/2014 passed in C.M/TA No. 53 of 2013.

2. Accused Riaz Ali, Maisam Ali and Zulfiqar Ali alias Bhutto have faced trial in the instant case for the offence under sections

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302/34/109 PPC registered at Police Station Ustarzai Kohat vide FIR No. 80 dated 24/03/2013.

3. Abbas Ali Bangash s/o Ali Muhammad Bangash on 24/03/2013 at 09:00 hours through FIR reported to the police that while posted at General Head Quarters (GHQ) Rawalpindi being Major in Pakistan Army he was informed on 23/03/2013 at 20:16 hours by his brother Haidar Ali Bangash (posted at Cadet College Swat as Instructor) on his (complainant's) cell # 0300-5708179

*Waf*  
MUHAMMAD YOUNAS  
District & Sessions Judge,  
Peshawar (PHC 108-64-1)

regarding the murder of his father Capt: Ali Muhammad Bangash (retired) in his village Ustarzai Payan, Kohat; that on 23/03/2013 at about 19:25 hours someone knocked the left yellow back door of their house which was towards the barren field having some trees;

13 OCT 2020

*Heard to be true copy*

that in response thereto Ali Muhammad Bangash while having his dinner went outside through the right door of his house; that after about 1.5 minute inmates of the house heard firing from back side of the house whereupon they called Taj Muhammad (complainant's uncle) on phone and Taj Muhammad came to their house; that inmates of the house and Taj Muhammad went towards the barren field and found over there Ali Muhammad Bangash lying murdered in pool of blood; that the dead body was shifted to Civil Hospital Ustarzai, Kohat for post mortem examination; that the complainant left Rawalpindi for Kohat via Fateh Jhang road; that he returned from Khushal Garh Bridge as it was closed and then took Fateh

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Jhang, Attock, Peshawar, Kohat road; that he told Mujtaba Ali SHO Police Station Ustarzai on phone to wait for him as he himself wanted to report the matter; that he firmly believes that his co-villagers namely Zulfiqar Ali alias Bhutto, Mazhar Ali and Riaz Ali sons of Nadar Ali are involved in the murder of his father; that motive behind the occurrence is dispute over Shamilat-e-Deh with the accused party which is pending in the court; that many a time the culprits have given life threat to the deceased; that the deceased had told him (complainant) and other two sons namely Haidar Ali Bangash and Jehangir Ali Bangash that if he was killed it would be the doing of the aforementioned culprits; that if Zulfiqar Ali alias Bhutto is abroad then he is involved in conspiracy of the murder of the deceased and that the culprits belong to the terrorist group of Orakzai and Kurrum Agency. The FIR was also signed by Jehangir Ali Khan Bangash, brother of the complainant, as verifier. Hence, the present case.

4. Initially challan was submitted against accused Riaz Ali and Maisam Ali for contested trial and for proceedings u/s 512 Cr.PC against Zulfiqar Ali alias Bhutto and Mazhar Ali. On appearance of accused Riaz Ali and Maisam Ali in the court, necessary papers were provided to them as required under section 265-C Cr. P.C. Charge was framed to which they pleaded not guilty and claimed trial. On the basis of statement of SW-1 Dastan Ali No. 87 DFC police station Usterzai Kohat, proceedings u/s 512 Cr.P.C. were

*WP*  
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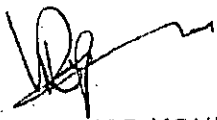
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initiated against the absconding co-accused Zulfiqar Ali alias Bhutto and Mazhar Ali and the prosecution was allowed to lead evidence in their absence. Later on, accused Zulfiqar Ali alias Bhutto was arrested and his supplementary challan was submitted. And under section 265-C Cr.PC necessary documents were also provided to him. Joint charge against all the 03 accused facing trial framed to which they pleaded not guilty and claimed trial.

5. The prosecution produced and examined as many as 17 witnesses gist whereof is reproduced as under:-

- i. PW-1/Iftikhar Ali FC No.84 took parcel containing blood stained pebbles and parcel containing blood stained garments of deceased through receipt Ex.PW1/1 to FSL, Peshawar. Similarly, vide receipt Ex.PW1/2 he took parcel containing 16 empties of 7.62 bore to FSL for expert opinion. His statement was recorded by the IO u/s 161 Cr.PC.
- ii. PW-2/Hashmat Ali ASI is marginal witness to the recovery memo Ex.PW2/1 vide which the IO took into possession blood stained garments of the deceased brought by Riyat Ali FC consisting of shirt, shalwar of black colour, one waistcoat of Khaki colour and one white colour banyan which the IO sealed into parcel in his presence. His statement was recorded by the IO u/s 161 Cr.PC.


  
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- iii. PW-3/Maqbool Hussain FC No. 67 is marginal witness to the recovery memo Ex.PW3/1 vide which the IO took into possession one Kalashnikov No. 313 56-14611810 with fixed charger produced by Dastan Ali LHC No. 87 from the personal box of accused/police constable Maisam Ali FC No. 1502 of Elite Force Platoon No. 87 and sealed into parcel in his presence. Later on the said Kalashnikov was handed over to him through receipt Ex.PW3/2 for onward deposit in FSL Peshawar which he did. His statement was recorded by the IO u/s 161 Cr.PC.
- iv. PW-4/Aman Ullah Constable No.88 is marginal witness to recovery memo Ex.PW4/1 vide which the IO took into possession 03 CDs produced by complainant Abbas Ali Bangash and 02 English letters. His statement was recorded by the IO u/s 161 Cr.PC.
- v. PW-5/Dastan Ali HC No. 87 is marginal witness to recovery memo Ex.PW2/1 vide which the IO took into possession blood stained garments of deceased produced by Riyat Ali FC and sealed into parcel in his presence. On 31/03/2013 vide recovery memo Ex.PW3/1 he handed over official Kalashnikov to IO. As DFC he was entrusted with warrants u/s 204 Cr.PC

  
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(Ex.PW5/1 & Ex.PW5/2) for execution against Zulficar Ali and Mazhar Ali which he returned unexecuted along with his reports Ex.PW5/3 & Ex.PW5/4. He was then entrusted with proclamation notices u/s 87 Cr.PC Ex.PW5/5 & Ex.PW5/6 against the above named accused. He returned the same along with his reports which are Ex.PW5/7 & Ex.PW5/8.

- vi. PW-6/Mujtaba Ali SI on 24/03/2013 has reduced report of complainant Abbas Ali Bangash into FIR Ex.PA. On the same day, he also arrested the accused Riaz Ali and issued his card of arrest Ex.PW6/1. He submitted interim challan on 06/04/2013 Ex.PW6/2 as well as complete challan Ex.PW6/3 on 22/04/2013.
- vii. PW-7/Nazeer Khan SHO says that he prepared the inquest report Ex.PW7/1 of deceased Ali Muhammad Bangash duly identified by witnesses as well as injury sheet Ex.PW7/2. He sent dead body of the deceased to Mortuary under the escort of Riyat Ali FC.
- viii. PW-8/Dr. Ashfaq says that on 23/03/2013 at 09:15 PM, he has conducted post mortem examination on the dead body of deceased Ali Muhammad Bangash s/o Baqir Ali aged about 64 years brought by police, identified by Shamshad Ali s/o Zafar Ali & Siraj Hussain s/o Zavar Hussain and found the following:

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A fresh body wearing shalwar & gamees of white colour.

Injuries.

<u>Entry wounds</u>	<u>Exit wounds</u>
1. Right parietal bone (right ear) of the skull (1 cm)	1. Left occipito parietal bone of the skull (3"x 2")
2. Right iliac fossa (1cm) anteriorly	2. Posteriorly at level of L-3 vertebrae (2"x 1")
3. Anteriorly at level of 11 <sup>th</sup> rib right side (1cm)	3. Posteriorly at the level of L-1 vertebrae (1"x 1")
4. Anteriorly (right side) at the level of 5 <sup>th</sup> intercostals space (1cm)	4. Posteriorly right side at scapular region (1" x 1")
5. Anteriorly left side at the level of umbilicus (1cm)	5. Posteriorly left at lumber region (1"x 1")
6. Anteriorly left side at the level of 2 <sup>nd</sup> intercostals space (1cm)	6. Posteriorly (left) through in through (1"x 1")
7. Left axillary fold 1cm	7. Posteriorly at shoulder girdle (1" x ½")
8. Anteriorly at left upper thigh (1")	8. Postero medially left middle thigh (1"x 1 ½")
9. Left leg anterior laterally (1cm)	9. Postero-medially left leg 1"x 1" with fracture of tibia.
10. Left foot posteriorly (1")	10. Left foot anteriorly (2" x 1")
11. Anteriorly pubic region	11. Posteriorly at left

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(1cm)

buttock (1" x 1")

12. A lacerated wound anteriorly left side of abdomen (4" x 1 1/2").

Cranium & Spinal Cord.

Fracture of parieto occipital bone of the skull & membranes are ruptured.

Thorax: Walls, ribs, cartilages, plurae, right and left lungs, pericardium, heart and blood vessels were injured.

Abdomen: Walls, peritoneum, diaphragm, stomach & its contents, small intestine and their contents, large intestine & their contents, liver, right kidney and bladder are injured.

Muscles, Bone & Joint:

Fracture of skull, left femur, left tibia and scapula.

Remarks.

12 bullet shots with its entry & exit wounds described above. Death was due to injuries to vital organs i.e. brain, heart, lungs, kidney & massive bleedings from the vessels.

Probable time between injury & death..... 05 to 10 minutes approximately.

Probable time between death & PM .... 1 1/2 to 2 hours approximately.

PM report Ex.PM correctly bears his signature.

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ix. PW-9/Aftab Javed then JMIC-VI Kohat told that on 30/03/2013 vide application Ex.PW9/1 and on 03/04/2013 vide application Ex.PW9/2 the local police approached the learned Sessions Judge, Kohat for conducting identification parade of the accused Maisam Ali & Riaz Ali through PWs Mst. Alia Parveen & Mst. Maria Parveen which were marked to him. On 03/04/2013 he conducted identification parade of the accused Riaz Ali and Maisam Ali from PWs Mst. Alia Parveen and Mst. Maria Parveen inside jail premises Kohat who correctly identified them on 03 different occasions. His report Ex.PW9/3 consisting of 04 sheets correctly bears his signature.

x. PW-10/Gul Janan Inspector has submitted supplementary challan Ex.PW10/1 against the accused Zulfiqar Ali alias Bhutto after his arrest.

xi. PW-11/Naeem Ullah SI has partially investigated the instant case. On 08/09/2014 he has shown formal arrest of the accused Zulfiqar Ali alias Bhutto after his BBA. On 09/09/2014 complainant produced 03 CDs in respect of accused Maisam Ali showing the call data recording from 01/03/2013 to 10/04/2013 of mobile phone No. 0334-8298508 issued in the name of accused Maisam Ali which shows his involvement in

  
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the case and his absence from duty. Similarly, 02 letters were also handed over to him in respect of CDR of the above mentioned mobile number of the accused Maisam Ali and of Zulfiqar Ali consisting of 10 pages and 12 pages vide letter diary Nos. 140, 141 dated 09/09/2014 which were written on 04/09/2014 & 09/09/2014. After recalling of BBA of accused Zulfiqar Ali, he was formally arrested by ASI Azam Khan who then handed over the said accused to him. Vide his application Ex.PW11/1 he obtained 02 days police custody of accused Zulfiqar Ali. He interrogated the accused. After expiry of police custody, vide his application Ex.PW11/2 he applied for further police custody of the accused Zulfiqar Ali on the ground that he was contacted by Maisam Ali from Saudi Arabia through his cell No.0332-9514301 (mobile data Ex.PW11/3) which was turned down and the accused was remanded to judicial lock up. He recorded statements of the accused and PWs u/s 161 Cr.PC. After completion of investigation he handed over the case file to the SHO for submission of supplementary challan against the accused Zulfiqar Ali.

- xii. PW-12/Wisal PA to SP Investigation is marginal witness to the recovery memo Ex.PW12/1 vide which


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the IO took into possession covering letter of complainant addressed to police officials and a number of court documents/petitions, letters and google maps attached with the letter. In the office of SP Investigation Kohat Diary No. 147/PA is dated 12<sup>th</sup> September, 2014. The court documents/petitions are related to Civil case/dispute filed by the deceased Captain (Rtd) Ali Muhammad Bangash against accused Zulfiqar Ali alias Bhutto, Riaz Ali and Mazhar Ali. His statement was recorded by the IO u/s 161 Cr.PC.

  
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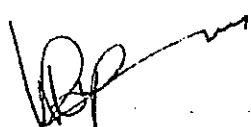
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- xiii. PW-13/Muhammad Azam SI told that as ASI vide recovery memo Ex:PW12/1, he took into possession in presence of marginal witnesses documents consisting of 205 pages. He recorded statements of the PWs under section 161 Cr.P.C.
- xiv. PW-14/Captain Jehangir Ali Khan Bangash s/o Ali Muhammad Bangash told that in his presence his brother Abbas Ali Bangash had lodged the instant FIR. He endorsed the FIR as verifier. In his presence the accused party had extended serious life threats to his father during his life time in Ustarzai Payan, Kohat in respect whereof his father had written a complaint to

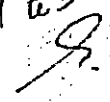
Magistrate Kohat u/s 107/51 Cr.PC. The letter is Ex.PW14/1 and surety bond is Ex.PW14/2.

xv. PW-15/Abbas Ali Bangash s/o Ali Muhammad Bangash (complainant) has repeated the story contained in the FIR reproduced in third para of this judgment. He also recorded his statement on 30/03/2013 u/s 164 Cr.PC wherein he also nominated accused Maisam Ali.

xvi. PW-16/Mst. Alia Parveen d/o Ali Muhammad Bangash told that on 23/03/2013 at about 19:25 hours she and her sister Mst. Maria Parveen were preparing tea in their kitchen for their father. Meanwhile, some one knocked yellow gate of their house. At this, her father went out from another gate i.e. red gate of their house. After 1 ½ minute, they heard the report of fire shots whereupon they looked outside the house from their kitchen through window and in search light she saw 03 persons while firing at her father. They also focused their hand torch upon the said three persons and clearly saw their faces who were making firing with their Kalashnikovs. After the firing the accused decamped from the spot through Challi Bagh thoroughfare whereas after sustaining firearm injuries her father fell on the ground. After that she made call

  
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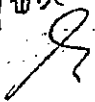
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to her uncle Taj Muhammad living in adjacent house who came to their house. She narrated the incident to him who along with them quickly moved towards the spot where they saw their father lying murdered on the ground in the pool of blood. On the next day, on the arrival of police her statement was recorded and at their (Mst. Alia Parveen & Mst. Maria Parveen) instance the site plan was also prepared by the IO. On 30/03/2013 her statement u/s 164 Cr.PC was recorded. On 03/04/2013, she identified two of the accused Riaz Ali and Maisam Ali in District Kohat Jail in presence of JMIC, Kohat, whereas the 3<sup>rd</sup> accused was not brought before her and she can also recognize him if brought before her. She charged the accused for the commission of offence.

- i. PW-17/Zeenat Hussain Inspector (Rtd) has also investigated the instant case. He visited the spot and prepared site plan Ex.PB in presence of complainant at the instance of PWs Mst. Alia and Mst. Maria Parveen. During spot inspection vide recovery memo Ex.PW17/1, he took into possession some blood stained pebbles and 16 empties of 7.62 bore from the spot, one torch from the house of deceased lying in the kitchen and one search light installed outside the house

  
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of the deceased. Vide recovery memo Ex.PW2/1 he took into possession blood stained garments of deceased consisting of qamees, shalwar, waistcoat and banyan. He also recorded statements of two eye witnesses (namely Mst. Alia Parveen & Mst. Maria Parveen), Taj Muhammad and Jehangir Khan on the spot. Similarly, he also recorded statements of the marginal witnesses and PW Tanveer Ali. Vide search memo Ex.PW17/2 he raided house of the accused but neither they were present in their house nor anything incriminating was recovered therefrom. He took into possession the mobile sets of the deceased, Taj Muhammad and Mst. Alia Parveen. Vide application Ex.PW17/3 he applied for the mobile data of the above mentioned cell numbers of deceased, PWs as well as of accused Riaz, sim No. 0332-9652147 & 0333-5013262 and received/obtained the mobile data Ex.PW17/4 consisting of 71 sheets (mark as 132 to 202) available on file. After the arrest of accused Riaz Ali, he was handed over to him for interrogation. Vide application Ex:PW17/5 he obtained 02 days police custody of accused Riaz Ali. He interrogated him and after completion of police custody vide his application Ex:PW17/6 he again produced the accused for further

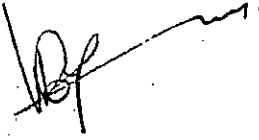
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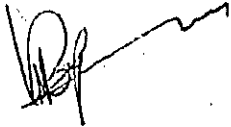
police custody but the same was turned down. Vide application Ex:PW17/7, he sent the blood stained garments to the FSL for analysis. Similarly vide his application Ex:PW17/8 the recovered empties were sent to the FSL for analysis. In this respect the FSL reports are Ex:PZ and Ex:PZ/1 respectively. Vide application Ex:PW17/9, he produced PW Mst. Aalia Parveen and Mst. Maria Parveen in the court of JMIC, Kohat where their statements were recorded u/s 164 Cr.P.C. Vide application Ex:PW17/10 he produced complainant in the court of JMIC, Kohat where his statement was recorded u/s 164 Cr.P.C. In his statement the complainant also produced the documents regarding the motive part of the occurrence which are already available on file as Mark-A, B, C, D, E, F, J, I. He also placed on file pictures of the spot which are Ex:PW17/11 (12 in number). Through application Ex:PW9/1, he produced PW Mst. Aalia Parveen and Mst. Maria Parveen for identification of accused Riaz Ali through JMIC, Kohat. Similarly, vide application Ex:PW9/2, he produced PW Mst. Aalia Parveen and Mst. Maria Parveen for identification of accused Maisam Ali through JMIC, Kohat. Papers of identification parade were handed over to him which

  
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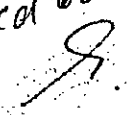
he placed on file. He also placed on file copies of complaints u/s 107/151 Cr.P.C. of the accused and the deceased Ali Muhammad Bangash. The bail bond Mark-G u/s 107/151 Cr.P.C. is available on file. Similarly, the court order in civil litigation of the deceased against accused party) is already Mark-K (8 sheets). He arrested Maisam Ali vide his arrest card Ex:PW17/12. Vide application Ex:PW17/13, he obtained one day police custody of accused Maisam Ali. Vide memo Ex:PW3/1 he took into possession the official Kalashnikov of Elite Force which was allotted to accused Maisam Ali FC No.1502. After completion of police custody he again produced the accused Maisam Ali for further police custody vide his application Ex:PW17/14 and accordingly one day further police custody was granted. He interrogated the accused. Vide his application Ex:PW17/15 he produced the accused Maisam Ali for further custody but the same was turned down. Vide application Ex:PW17/16, he applied for legal opinion of DPP concerned for addition of section 109 PPC. After obtaining the opinion through Parwana Addition Ex:PW17/17 he added section 109 PPC in the case. He also received post mortem report of the deceased. Vide



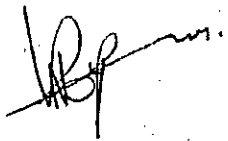
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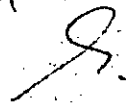
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application Ex:PW17/18 he applied for the mobile data of accused nominated in the FIR with their respective cell numbers from the concerned mobile company, received the same and placed on file which is Ex:PW17/19 consisting of 71 sheets (mark as 132 to 202). As accused Zulfiqar Ali and Mazhar Ali were avoiding their lawful arrest, vide his application Ex:PW17/20 he obtained warrants u/s 204 Cr.P.C and handed over to the DFC concerned for execution. Similarly, vide his application Ex:PW17/21 he obtained proclamation notices u/s 87 Cr.P.C. against the accused Zulfiqar Ali and Mazhar Ali and handed them over to the DFC concerned for execution. He also prepared list of LRs of deceased Ex:PW17/22. He also placed on file the FSL report Ex:PZ/2 regarding the empties and the official weapon. He placed on file the Rahdari receipts of the case properties Ex:PW1/1, Ex:PW1/2 and Ex:PW3/2. He also placed on file the letter Ex:PW15/1 addressed to the chief of police by the complainant. During the course of investigation on 24/03/2013 the high ups of the police department constituted a Joint Investigation Team (JIT) for the purpose of investigation vide office order Ex:PW17/23. He recorded statements of the PWs u/s

  
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161 Cr.P.C. Thereafter he was transferred from the P.S. and the case in hand was handed over to the successor in office for further investigation.

6. After close of the prosecution evidence statements of accused were recorded u/s 342 Cr.P.C, wherein they professed their innocence and opted not to appear on oath u/s 340(2) Cr.P.C, however, they wished to produce defence evidence.

7. In all 06 DWs were examined by the accused gist whereof is as under:-

i. DW-1 Azmat Ullah Khan FC No. 966 in his statement says that *"as per the available record, original lying in our office, I produced copy of application Ex:DW1/1, consisting of 2 pages, and inquiry report on the strength of application, the copy of which is Ex:DW1/2, consists of 2 pages, along with copy of DD No.11 dated 28/09/2013 P.S. Kohat Cantt: which is "Mark D1" and application "Mark D2" consisting of 3 sheets. Similarly, copy of letter No.471/PA dated 21/10/2013 Ex:DW1/3.*

ii. DW-2 Khalid Usman FC No. 1233 in his statement says that *"I have brought the record regarding the complaint vide copy of application Ex:DW2/1 consisting of 3 pages along with report of SHO P.S. Ustarzai dated 12/10/2010, the copy is Ex:DW2/2, along with photocopy of complaint u/s 107/151 Cr.P.C. and police report regarding theft of ATM card, which is "Mark D2/1" consisting of 2*

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pages. Similarly, report of DPO submitted to DIG Kohat is Ex:DW2/3.

iii. **DW-3 Atif Naeem Madad Moharrir** in his statement says that "I have brought Roznamcha Register dated 23/03/2013, as per Mad report No.10 dated 23/03/2013, at 13:10 hours accused Maisem Ali started Gasht along with ASI Tahir Khan. Similarly, vide Mad No.10 dated 23/03/2013 at 17:00 hours accused Maisem Ali is returned to the P.S. from Gasht, and as per Mad No.12 dated 23/03/2013 at 18:00 hours, police officials who completed their duties were counted and present in police station. Similarly as per Mad No.14 dated 24/03/2013 at 00:50 hours accused Maisem Ali has left the P.S. along with other officials for Gasht. The copy of above mentioned DDs are Ex:DW3/1 consisting of two pages".

iv. **DW-4 Rehman Ali Record Keeper** in his statement says that "I have produced the record of Muafiz Khana, which was consigned in the year 2018 from Ishrat Ali deed writer district Kohat, copy of the same is Ex:DW4/1".

v. **DW-5 Ishrat Ali s/o Ghulam Naqi** in his statement says that "I am a deed writer in district courts Kohat. I am the deed writer of deed Ex:DW5/1 in between Ikhtlaq Hussain Kiyani and Zulfiqar Ali Butto, the same is in my handwriting, correctly bearing my signature as well as signature of the parties and witnesses".

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vi. DW-6 Ali Nasir Kiyani s/o Jamshed Ali Kiyani in his statement says that "I am witness to already Ex:DW5/1, the same is correct and correctly bears my signature".

8. Arguments heard, file perused and relevant law studied.

9. Learned defence counsel stated that the accused facing trial are innocent and have been falsely roped in the case by the complainant. The accused has produced DW-1 to DW-6 in proof of their innocence. Close relatives of the deceased who have been produced and examined by the prosecution are not independent witnesses meaning thereby that they are not worth reliance. Delay in report has not been plausibly explained by the prosecution. FIR

MUHAMMAD YOUNAS has been lodged after deliberation and consultation. No independent District & Sessions Judge, Peshawar (PHC 108-64-1) witness has been produced by the prosecution in support of the case

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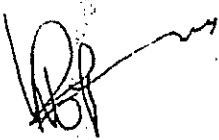
in hand. No eye witness account is available in respect of the alleged offence. In the FIR, as such no one has been cited as eye witness. Recovery of blood stained pebbles and 16 empties of 7.62 bore from the alleged spot has falsely been shown and as such the FSL report is of no value. Even the official weapon of accused Maisam Ali has not matched with the 16 empties allegedly recovered from the spot. CDR available on the file is not in respect of the alleged offence. Medical evidence and site plan do not support the FIR story. The accused party does not have any grudge against the complainant meaning thereby that the alleged motive is baseless. The accused Zulfiqar Ali alias Bhutto has not remained

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absconder and at the time of occurrence he was abroad. Identification parade is of no value at all because both the accused Riaz Ali and Maisam Ali had already been shown to Mst. Alia Parveen and Mst. Maria Parveen. There are material contradictions & improvements in the statements of prosecution witnesses which rendered them untrustworthy. The prosecution failed to prove its case against the accused which means that the accused are entitled to acquittal. )

10. On the other hand, learned Sr.PP for the State assisted by learned counsel for complainant vehemently argued that with the help of straightforward, confidence inspiring and cohesive eye witness account in the shape of PW-16/ Mst. Alia Parveen, the prosecution has proved that in village Usterzai Payan on the back side of his house the deceased Ali Muhammad Bangash was murdered by accused facing trial Riaz Ali, Maisam Ali along with absconding co-accused Mazhar Ali and with the abetment/conspiracy of accused facing trial Zulfiqar Ali alias Bhutto. Accused Riaz Ali and Maisam Ali were correctly identified by PWs/eye witnesses Mst. Alia Parveen and Mst. Maria Parveen during identification parade and the PWs had not seen them before this identification parade. PW-14/Jehangir Ali Khan Bangash, PW-15/Abbas Ali Bangash (complainant) and PW-16/Mst. Alia Parveen are sons & daughter of the deceased Ali Muhammad Bangash respectively. However, close relatives are as good witnesses as any

  
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other person. Delay in the FIR has been plausibly explained by the prosecution. A strong motive in the shape of land dispute over Shamilat-e-Deh and proceedings u/s 107/151 Cr.PC between the parties as motive behind the occurrence has been proved. The accused party had given many a time life threats to the deceased during his life time. Site plan and medical evidence fully support the prosecution story given in the FIR. From the spot recovery of blood stained pebbles and 16 empties of 7.62 bore proves the spot alleged by the prosecution. Positive FSL report regarding blood stained pebbles and last worn clothes of the deceased lends further support to the FIR. Long and noticeable abscondance of the accused Zulfiqar Ali alias Bhutto indicates his involvement in the offence to the extent of abetment. Crime weapon has been recovered from the personal box of accused Maisam Ali FC No. 1502 in shape of Kalashnikov. The culprits were duly identified/recognized by Mst. Alia Parveen and Mst. Maria Parveen with the help of search light and hand torch at the time of occurrence. Learned Sr.PP assisted by learned counsel for complainant submitted that, in the circumstances, the accused facing trial deserve capital punishment.

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11. Prosecution relies upon the following categories of evidence:-

- i. Eyewitness testimony (PW-16/Mst. Alia Parveen) & identification parade.

- ii. Post Mortem report.
- iii. Recovery from the spot and FSL reports.
- iv. Site plan.
- v. Motive.
- vii. Abscondence.

12. Eye witness account:-

In criminal justice system, for proof of a crime eye witness testimony enjoys tremendous significance which may be furnished by the victim or those present on the spot at the time of occurrence. In the present case, stand of the prosecution is that PW16/Mst. Alia Parveen and her sister Mst. Maria Parveen are eyewitnesses of the tragic murder of her father Captain (Rtd) Ali Muhammad Bangash at the hands of the accused facing trial (Riaz Ali and his son Maisam Ali) and Mazhar Ali (absconding accused) at the abetment of accused facing trial Zulfiqar Ali alias Bhutto. The prosecution in proof of the alleged incident produced and examined Mst. Alia Parveen as PW-16.

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PW-14/Captain Jehangir Ali Khan Bangash, PW-15/Colonel Abbas Ali Bangash (complainant) and PW-16/Mst. Alia Parveen are close relatives of the deceased i.e. sons and daughter. However, in 2005 SCMR 1958, PLDT 1996 SC 138, PLD 2001 Peshawar 112 and 2003 P. Cr. LJ Peshawar 1309 it has been observed that mere existence of relationship between the deceased and witness would not make the witness an interested one and would not be sufficient to discredit him/her. In such a situation, more care is required to

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weigh such evidence as compared to the one produced by a witness not having any relation with the deceased/victim. Therefore, I thoroughly and carefully scrutinized their court statements.

PW-14 and PW-15 though not eyewitnesses of the occurrence have unanimously supported the FIR. PW-16 alleged eyewitness of the occurrence has also supported the FIR by saying that on the evening of 23/03/2013 at the relevant time she along with her sister Mst. Maria Parveen was preparing tea for their father and meanwhile someone knocked the back door of their house. In response, went out their father from another gate of their house. After about 1 1/2 minute they heard the report of fire shots

whereupon they looked outside the house from their kitchen in the window and in search light they saw 03 persons while firing at their father with Kalashnikovs. They also focused their hand torch upon

the said three persons and clearly saw their faces. On the next day at about 10:00 AM the police visited the spot, her (PW-16) statement was recorded by them overthere and at their (Mst. Alia Parveen and Mst. Maria Parveen) instance the site plan was also prepared by the IO in presence of their brothers including complainant where they met with their brothers after the incident. On 30/03/2013 her statement u/s 164 Cr.P.C. was recorded. On 03/04/2013 PW-16 and her other sister Mst. Maria Parveen (though she was not produced in the witness box) identified two of the accused Riaz Ali and Maisam Ali in District Kohat Jail in presence

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of PW-9/Mr. Aftab Iqbal, learned JMIC Kohat. According to the site plan at the time of occurrence distance between the three accused present on the spot and PW-16 is 38, 40 & 41 paces which is supported by PW-16 in her court statement by saying that distance between the place where her father was murdered and their kitchen was about 30 paces. In presence of search light and hand torch identification of a person from this distance is very much possible particularly when people are from the same locality like the present case. Accused Maisam Ali has taken plea that on the eventful time he was on duty and was in PS being police official in support whereof he produced defence evidence in shape of DW-3/Atif Naeem Madad Moharrir PS Ustarzai Kohat. DW-3 produced extract/photocopies of Mad No.10 dated 23/03/2013 according to which at 13:10 hours accused Maisam Ali started gusht along with ASI Tahir Khan and at 17:00 hours he returned to the PS from gusht. As per Mad No.12 dated 23/03/2013 at 18:00 hours accused Maisam Ali was in PS. DW-3 in his cross examination says that accused Maisam Ali then in Elite Force was not on duty at the time of occurrence i.e. 19:30 hours of 23/03/2013 but as per record was present in PS. However, no one from the police officials/officers posted at that police station has appeared in the witness box to the effect that at the time of occurrence Maisam Ali was with him in the police station. Moreover, as mentioned above eyewitness account of the alleged occurrence in the shape of PW-16 is

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cohesive and trustworthy regarding presence of Maisam Ali on the spot at the relevant time. Thus, the plea taken by the accused Maisam Ali is not trustworthy, hence, disbelieved. DW-1/Azmat Ullah Khan FC No.966, DW-2/Khalid Usman FC No. 1233, DW-4/Rehman Ali Record Keeper District Record Room, Kohat, DW-5/Ishrat Ali s/o Ghulam Naqi Deed Writer and DW-6/Ali Nasir Kiyani s/o Jamshed Ali Kiyani have no nexus with the proof or otherwise of the subject incident.

In the FIR, lodged on 24/03/2013 at 09:00 AM names of eyewitnesses have not been disclosed by the complainant. It is to be noted that complainant posted at GHQ Rawalpindi had been informed by his brother Haidar Ali Bangash as Instructor at Cadet College Swat and he/complainant had come straight from Rawalpindi to PS Ustarzai without contacting any other person of his family. Just after one hour of the report i.e. at about 10:00 AM PW-16 and her other sister Mst. Maria Parveen in presence of their brother (complainant) claiming to have seen the occurrence gave details of the spot to the IO who accordingly prepared site plan and also recorded their statements under section 161 Cr.PC. In the circumstances; not citing his sisters in the FIR as eyewitnesses is not fatal particularly as in the FIR it is mentioned that inmates of the house after hearing firing informed their uncle living in adjacent house. Valuable guidance in this respect has been given in "Rasool Bakhsh Vs The State PLD 1966 (W.P.) Quetta 6". It is a rare

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phenomenon that in murder cases in place of real culprits innocent persons are charged. Presence of PW-16 and Mst. Maria Parveen being unmarried in their house during night time on the day of occurrence is natural. PW-16 was cross examined at length but could not be shattered on material points. Thus, in respect of murder of Captain (Rtd) Ali Muhammad Bangash though CDR data is not giving any clear help to the prosecution and none of the accused has confessed his guilt cohesive, unimpeachable, trustworthy and confidence inspiring eye witness account is available in the shape of court statement of PW-16.

According to PW-15/complainant, he was informed by his brother Haidar Ali Bangash posted as Instructor at Cadet College

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Swat on 23/03/2013 at 20:16 hours about murder of their father. After getting due permission which in army takes some time the complainant left Rawalpindi for Ustarzai Kohat via Fateh Jhang road. However, as explained by him, when he reached Khushal Garh Bridge he found it closed due to which he returned back to Fateh Jhang and from there took Fateh Jhang, Attock, Peshawar, Kohat road. Reaching at about 09:00 AM on 24/03/2013 the police station Ustarzai Kohat which comes first from his house/village appeals to reason. Thus, the delay in lodging the report verified in the police station by PW-14/Captain Jehangir Ali Khan Bangash (brother of complainant) stands plausibly explained. In this respect, reliance is placed on 2019 YLR 1161 [Sindh (Larkana Bench)]

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titled Ghulam Sarwar Jagirani Vs Hussain Bux Jagirani, 2015 YLR 116 [Lahore] titled Muhammad Akram Vs The State & others and Muhammad Zubair Vs State 2007 SCMR 437.

Allegations leveled by the prosecution are that murder of Captain (Rtd) Ali Muhammad Bangash had been committed at the abetment of the accused Zulfiqar Ali alias Bhutto. The offence of abetment/conspiracy according to PLD 1968 [Karachi] 853 is a substantive offence and to establish this charge in view of PLD 1970 [Karachi] 15 there must be some evidence of an overt action or omission so as to suggest a preconcert or a common design to commit a particular offence. In PLD 2001 [Lahore] 123 it has been held that evidence can even be indirect and circumstantial.

However, overhere no evidence of an overt action or omission, indirect and circumstantial evidence is available in order to suggest that in the murder of the deceased the accused Zulfiqar Ali alias Bhutto had played the role of abetment/conspiracy. Even the source of satisfaction about his alleged involvement in the crime in question has not been disclosed by the complainant or any other witness. Moreover, during the days of occurrence, accused Zulfiqar Ali alias Bhutto was abroad. He has also not confessed his guilt.

13. Post Mortem Report:-

As per post mortem report prepared by Dr. Ashfaq (PW- 8) on the basis of examination conducted on 23/03/2013 at 09:15 PM he had found on the body of the deceased the following Injuries.

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Injuries.

<u>Entry wounds</u>	<u>Exit wounds</u>
1. Right parietal bone (right ear) of the skull (1 cm)	1. Left occipito parietal bone of the skull (3"x 2")
2. Right iliac fossa (1cm)	2. Posteriorly at level of L-3 anteriorly (2"x 1")
3. Anteriorly at level of 11 <sup>th</sup> rib right side (1cm)	3. Posteriorly at the level of L-1 vertebrae (1" x 1")
4. Anteriorly (right side) at the level of 5 <sup>th</sup> intercostals space (1cm)	4. Posteriorly right side at scapular region (1" x 1")
5. Anteriorly left side at the level of umbilicus (1cm)	5. Posteriorly left at lumber region (1"x 1")
6. Anteriorly left side at the level of 2 <sup>nd</sup> intercostals space (1cm)	6. Posteriorly (left) through in through (1"x 1")
7. Left axillary fold 1cm	7. Posteriorly at shoulder girdle (1" x 1/2")
8. Anteriorly at left upper thigh (1")	8. Posteriorly medially left middle thigh (1"x 1 1/2")
9. Left leg anterior laterally (1cm)	9. Posteriorly-medially left leg 1"x 1" with fracture of tibia.
10. Left foot posteriorly (1")	10. Left foot anteriorly (2" x 1")
11. Anteriorly pubic region (1cm)	11. Posteriorly at left buttock (1"x 1")

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12. A lacerated wound anteriorly left side of abdomen (4" x 1 1/2").

Cranium & Spinal Cord.

Fracture of parieto occipital bone of the skull & membranes are ruptured.

Thorax: Walls, ribs, cartilages, plurae, right and left lungs, pericardium, heart and blood vessels were injured.

Abdomen: Walls, peritoneum, diaphragm, stomach & its contents, small intestine and their contents, large intestine & their contents, liver, right kidney and bladder are injured.

Muscles, Bone & Joint:

Fracture of skull, left femur, left tibia and scapula.

Remarks.

12 bullet shots with its entry & exit wounds described above. Death was due to injuries to vital organs i.e. brain, heart, lungs, kidney & massive bleedings from the vessels.

Probable time between injury & death..... 05 to 10 minutes approximately.

Probable time between death & PM .... 1 1/2 to 2 hours approximately.

PM report Ex.PM correctly bears his signature.

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District & Sessions Judge,  
Peshawar (PHC 108-64-1)

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As observed in 2007 SCMR 1549, PLD 1976 SC 695 and 1994 SCMR 1928 Medical Evidence is confirmatory type of evidence and has got significant value in proof of hurt/murder case. In the instant case, post mortem report fully supports the prosecution case in respect of nature of injuries and cause of death being fire arm. In the FIR as well as statements of PW-15 and PW-16 it is alleged that on receiving fire arm injuries Captain (Rtd) Ali Muhammad Bangash died on the spot. The same fact is supported by the PM report as it is given therein that time between injury and death of Captain (Rtd) Ali Muhammad Bangash was 05 to 10 minutes approximately. Date and time of occurrence alleged in the FIR are also proved from medical evidence.

14. Recovery/FSL reports:-

Recovery of blood stained pebbles and 16 empties of 7.62 bore has been made by PW-17/Zeenat Hussain Inspector (Rtd) as IO from the venue of occurrence. He also secured one hand torch from the house of deceased lying in the kitchen and one search light installed outside the house of the deceased. Last worn blood stained clothes of the deceased consisting of qamees, shalwar, waistcoat and banyan brought from the mortuary after PM examination by constable Riyat Ali were taken into possession by investigation officer vide recovery memo Ex.PW2/1. PW-2/Hashmat Ali ASI as marginal witness of the said recovery memo supported the same. Blood stained pebbles, garments of the

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15. Site plan:-

In criminal cases, site plan as observed in NLR 2002 Criminal 321 Lahore is a very important document though not constituting substantive evidence. PW17/Zeenat Hussain Inspector /Investigating Officer says that he has prepared site plan on the pointation of PW-16/eyewitness and her other sister namely Mst. Maria Parveen in presence of complainant. PW-15/complainant and PW-16/Mst. Alia Parveen also say so. The site plan contains similar note. The spot alleged in the FIR and repeated in court statements of eyewitness (PW-16) and PW-17/IO is proved from this document. In this document, 03 accused, the deceased and PW-16 besides Mst: Maria Parveen have been shown on the spot at the relevant time as alleged in the FIR and repeated in the prosecution evidence.

16. Motive:-

As per FIR, motive behind the occurrence in question is land /property dispute between the parties. PW-14/Captain Jehangir Khan Bangash, PW15/complainant and PW16/Mst. Alia Parveen fully supported the FIR in this respect. They were cross examined at length but could not be shattered. Copies of civil litigation and proceedings u/s 107/151 Cr.PC between the parties are available on the file. PW-14 & PW-15 further told that the accused party had many a time given life threats to their father in his life time. Thus, the alleged motive has been established by the prosecution.

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District & Sessions Judge,  
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However, it has been observed in 2008 P.Cr.LJ 405 Lahore, PLD 2004 SC 44 and 2005 SCMR 427 that inadequacy or weakness or even absence of motive will not adversely affect the prosecution if the case is otherwise proved.

17. Abscondence :-

As per record, proceedings u/s 204 Cr.PC and u/s 87 Cr.PC were carried out against accused Zulfiqar Ali alias Bhutto and challan for proceedings u/s 512 Cr.PC was also submitted. However, in view of 1999 SCMR 1220, 1995 SCMR 1373-1627, PLD 1995 [Peshawar] 155 and PLD 2004 [Peshawar] 20, abscondence of an accused can never remedy the defects in the prosecution case because it is neither necessarily indicative of guilt nor is ever sufficient by itself to bring home guilt against an accused. As such, his previous abscondence due to absence of other incriminating evidence does not provide any support to the prosecution case.

18. In PLJ 2006 Criminal Cases Peshawar 359 (DB) it has been held that while convicting an accused person for an offence particularly in a case of capital punishment court has to be fully convinced that in the prosecution case there is not even the slightest doubt. Considering the above mentioned factual & legal position that coherent oral account, recovery of blood stained pebbles, 16 empties of 7.62 bore, hand torch, search light from the spot, confirmatory medical evidence, supporting site plan, positive FSL

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Magistrate & Sessions Judge,  
Peshawar (PHC 108-64-1)

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report regarding blood stained articles and motive are available in support of the prosecution case it stands established beyond any shadow of doubt that the accused facing trial Riaz Ali and his son Maisam Ali have committed the murder of Captain (Rtd) Ali Muhammad Bangash.

19. As observed in 2005 P Cr.L.J 1939 Peshawar when offence of murder/Qatl-e-Amd is established maximum sentence therefor will have to be given. However, for murder of Captain (Rtd) Ali Muhammad Bangash charge has been proved against 02 persons due to which capital punishment will not be proper meaning thereby that accused facing trial Riaz Ali and Maisam Ali should be given lesser punishment.

20. Resultantly, in the case FIR No.80 dated 24/03/2013 u/ss 302/109/34 PPC at police station Usterzai, Kohat, each of the accused Riaz Ali s/o Nadar Ali and Maisam Ali s/o Riaz Ali is convicted u/s 302(b)/34 PPC and sentenced to the extent of imprisonment for life as Ta'zir. Each shall pay Rs.200,000/- (Two lac) as compensation to LRs of the deceased in view of section 544-A Cr.PC, in default whereof each shall undergo further six months SI. Benefit of section 382-B Cr.PC is extended to the convicts. They are on bail, taken into custody and sent to Central Jail, Peshawar along with conviction warrants to serve the sentence awarded to them.

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 & Sessions Judge,  
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21. However, for want of proof, the accused facing trial Zulfiqar Ali alias Bhutto is acquitted of the charge of abetment/conspiracy leveled against him. He is on bail, he and his sureties are discharged from the liabilities of bail bonds.

22. So far as the case against the absconding accused Mazhar Ali s/o Nadar Ali r/o Usterzai Payan, Kohat is concerned, in light of the evidence available, prima facie case exists against him. Therefore, he is declared proclaimed offender. Perpetual non-bailable warrant of his arrest be issued against him. His name be entered in the Register maintained for the POs. Case property be kept intact till his arrest and trial.

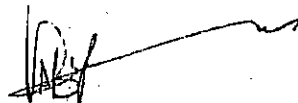
23. Copy of this judgment consisting of 36 (thirty six) pages is given to the convicts free of cost. They in this respect thumb impressed the order sheet. File be consigned to record room after completion and compilation.

Announced  
13-10-2020.

  
MUHAMMAD YOUNAS,  
Sessions Judge, Peshawar.  
13 OCT 2020

CERTIFICATE

Certified that this judgment consists of thirty six. (36) pages. Each page has been read, checked, corrected where necessary and signed by me.

  
MUHAMMAD YOUNAS,  
Sessions Judge, Peshawar  
13 OCT 2020

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**IN THE PESHAWAR HIGH COURT, PESHAWAR**

Cr. Appeal. No. \_\_\_\_/2020

1. Riaz Ali S/o Nadar Ali
2. Maisam Ali Riaz Ali both residents of Ustarzai Payan, Tehsil and District Kohat..... (Accused/Appellant)

**VERSUS**

1. The State.
2. Abbas Ali Bangash S/o Ali Muhammad Bangash R/o Ustarzai Payan, Tehsil and District Kohat.....(Complainant/Respondent)

**CASE F.I.R NO. 80, DATED 24/03/2013 CHARGE U/S 302, 34,  
109 PPC, POLICE STATION USTARZAI, KOHAT.**

**APPEAL U/S 410 CR.PC AGAINST THE JUDGMENT  
DATED 13/10/2020 OF LEARNED SESSIONS  
JUDGE, PESHAWAR, WHEREBY THE LEARNED  
TRIAL COURT CONVICTED AND SENTENCE BOTH  
THE APPELLANT U/S 302(b)/34 PPC TO LIFE  
IMPRISONMENT AS TAZIR WITH FINE OF  
RS.200,000/. (TWO LAC) EACH AS COMPENSATION  
TO THE LEGAL HEIRS OF DECEASED UNDER  
SECTION 544-A CR.PC, IN DEFAULT OF PAYMENT 6  
MONTH SL. BENEFIT OF SECTION 382 (B) CR.PC IS  
EXTENDED TO THE APPELLANTS.**

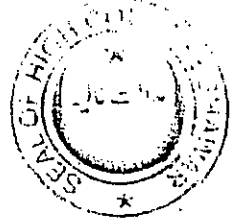


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**JUDGMENT SHEET**  
**PESHAWAR HIGH COURT, PESHAWAR**  
**(Judicial Department)**

**Cr.A No. 861-P/2020**

**CONSOLIDATED JUDGMENT**



Date of hearing: 28.02.2023

**Appellant (Riaz Ali and Maisam Ali) by: Syed Abdul Fayaz & Mr. Muzahir Hussain (Kohat), Advocates.**

**Respondents: (the State) by: Mr. Muhammad Nisar, Addl. AG and (complainant) by Mr. Hussain Ali, Advocate.**

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**MOHAMMAD IBRAHIM KHAN, J.**— This singled-out judgment shall dispose of criminal appeal No. 861-P/2020 titled *Riaz Ali & another vs the State & another*, criminal appeal No. 141-P/2020 titled *The State vs Riaz Ali & another*, criminal appeal No. 919-P/2020 titled *Abbas Ali Bangash vs Zulfiqar alias Bhutto*, and criminal revision No.140-P/2020 titled *Abbas Ali Bangash vs Riaz Ali & others*. All arise out of a loner judgment dated 13.10.2020 passed by the learned Sessions Judge, Peshawar in Sessions Case No. 02/SC of 2014 trial held of FIR No.

EXAMINER  
PESHAWAR HIGH COURT

80 dated 24.03.2023 under sections: 302-34-109 PPC registered at Police Station Ustarzai, District Kohat.

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2. The contents of the murasila followed by registration of first information report are that on 24.03.2012 complainant Abbas Ali Bangash reported the matter to the effect that while performing his duties as Major in Pakistan Army at GHQ, Rawalpindi, he received information that on 23.03.2013, his brother Haider Ali Bangash, posted as Instructor at Cadet College, Swat, at about 19:25 hours went out on right side door of his house when someone knocked at the 2<sup>nd</sup> door towards the barren fields. After at about 1.5 minutes, the inmates heard firing shots from back side of the house hence, on telephonic call, his uncle namely Taj Muhammad came to their house, who found the dead body of Ali Muhammad Bangash in the barren fields. After arrival from Rawalpindi, the complainant charged accused Zulfiqar Ali alias Bhutto, Mazhar Ali and Riaz Ali for the murder of his brother. Motive behind the

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Ali and Maisam Ali guilty of the charges levelled against them while accused Zulfiqar alias Bhutto was acquitted of the charges of abatement/conspiracy. The sentences are:

*Accused Riaz Ali son of Nadar Ali and Maisam Ali son of Riaz Ali are convicted u/s 302(b)/34 PPC and sentenced to the extent of imprisonment for life as Tazir. Each shall pay Rs.200,000/- (two lac) as compensation to LRs of the deceased in view of section 544-A CrPC, in default whereof, each shall undergo further six months SI.*

*Benefit of Section 382-B Cr.PC was also extended to them"*

5. We have heard arguments of learned counsel for the appellants/respondents, learned Addl. AG on behalf of the State assisted by private counsel for complainant and perused the record with their valuable assistance.

6. While hearing learned counsels for the parties in this criminal appeal as well as in the connected appeals and criminal revision, it was pointed out that while each

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EXAMINER  
Punjab High Court

accused facing trial on examination under section 342 CrPC was put a specific question "Do you want to produce defense evidence?" The answer whereof copied in verbatim have named Ishrat Ali, Arz Navees of District Kohat, Record Keeper of Judicial Record Room, Kohat, Record Keeper of DPO Office Kohat, Ali Nasir Kiyani son of Jamsheed Ali Kiyani r/o Usterzai Kohat, Record Keeper of DIG Complaint Cell, Record Keeper of Police Station Usterzai and the inquiry report from DPO Office Kohat regarding their false involvement. While the statement of the defense witnesses were examined, they are DW-1 Azmat Ullah Khan FC No. 966 Record Keeper Complaint Cell DIG Office, Kohat, Khalid Usman FC No. 1233, Record Keeper DPO Office Kohat, DW-3 Atif Naeem, Madad Moharrar P.S Usterzai, Kohat, DW-4 Rehman Ali, Record Keeper Muhafiz Khana Kohat, DW-5 Ishrat Ali son of Ghulam Naqi Deed Writer and DW-06 Ali Nisar Kiyani son of Jamshed Ali Kiyani whereafter, there is no statement of

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JUDICIAL HIGH COURT

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learned Defence Counsel pertaining to closure of the defense evidence but presumed to have been closed.

7. It was the dire requirement that all such defense witnesses should have been examined for each accused facing trial. Neither verbatim copies in triplicate are available nor there is any order of the learned trial court to the effect that all such defense witnesses are examined for all the three accused facing trial as have been examined only once. When this anomaly rather illegality was pointed out, the learned counsels for the parties were confronted with, they readily accepted it and have proposed that if at all this legal infirmity is not cured with either triplicate copies of these defense witnesses with an order of the learned trial court or such defense witnesses are to be examined separately as witnesses in defense for each accused facing trial then certainly God forbids on conviction, it will be difficult to prove that each accused was given an opportunity of producing separately of the defense witnesses

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or at least either consent be obtained when these witnesses are examined on behalf of all the accused and the learned trial court has to furnish verbatim copies of each defense witnesses' statement in triplicate.

8. Learned counsel for the parties are agreed, let to cure this anomaly, the conviction of each accused Riaz Ali and Maisam, awarded to them through the impugned judgment be set aside and the matter be sent back to the learned trial court to follow the observations in the preceding para.

9. In view of the above, while setting aside the impugned conviction and sentence, criminal appeal No. 861-P/2020 titled *Riaz Ali & another vs the State & another* stands disposed of accordingly.

10. So far as criminal appeal No.141-P/2020 titled *The State vs Riaz Ali & another*, criminal appeal No. 919-P/2020 titled *Abbas Ali Bangash vs Zulfiqar alias Bhutto*, and criminal revision No.140-P/2020 titled *Abbas Ali Bangash vs Riaz Ali & others* are concerned, since, the main

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judgment dated 13.10.2020 on remand of the case has been set aside hence, these appeals and revision petition stand dismissed, being infructuous.

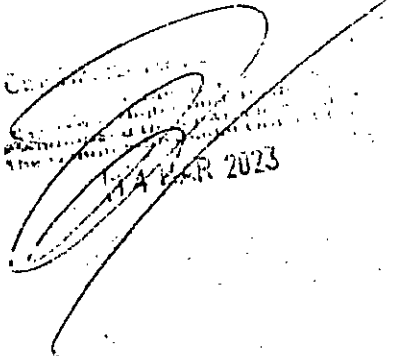
11. Before parting with this judgment, needless to mention that accused-appellants Riaz Ali and Maisam Ali, prior to announcement of the impugned judgment which has been set aside, were on bail therefore, their previous status is restored, who be released forthwith on bail on already bail bonds being revived while the acquitted accused Zulfiqar Ali alias Bhutto will also join the trial, whose bail bonds are also revived.

Announced.  
Dt: 28.02.2023

  
JUDGE

  
JUDGE

\*Muhammad Flaz\* (D.B.) Hon'ble Mr. Mohammad Ibrahim Khan, J  
Hon'ble Mr. Justice Ijaz Anwar, J

  
17 MAR 2023

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Date of Presentation of Application 11/3/2023  
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**BEFORE THE COURT OF ASHFAQUE TAJ  
SESSIONS JUDGE, PESHAWAR.**

**Case No. 690/SC of 2023**

**The Original Institution in Distt: Kohat: 24/10/2013.**

**The earlier Judgment: 13/10/2020**

**Remand of case to this court is of: 28/02/2023.**

**Date of Decision: 16/09/2023.**

**State Versus**

- 1) Riaz Ali s/o Nadar Ali,
- 2) Meisam Ali s/o Riaz Ali,
- 3) Zulfiqar Ali alias Bhutto  
s/o Nadar Ali all r/o  
Ustarzai Payan Tehsil &  
& District Kohat.  
.....(on bail)
- 4) Mazhar Ali s/o Nadar  
Ali r/o Ustarzai Payan  
Tehsil & District Kohat.  
.....(absconding)

District & Sessions Judge,  
Peshawar  
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**FIR No. 80.**  
**Dated: 24/03/2013.**  
**Sections: 302/34/109 PPC**  
**Police Station: Ustarzai, Kohat.**

- Mr Jehanzeb Khan Sr. PP for State & Mr Hussain Ali, Advocate, counsel for complainant.
- Mr Abdul Fayaz Khan, Advocate, and Mr Muzahir Hussain advocate from Kohat Bar, for accused facing trial.

**ATTESTED**

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**JUDGMENT:**

My predecessor in office rendered a thorough judgment in this case on October 13, 2020, following the trial. The accused, Riaz Ali, son of Nadar Ali, and Meisam Ali, son of Riaz Ali, were



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found guilty under Section 302(b)/34 PPC and sentenced to life in prison as Tazir with a fine of Rs. 200,000/- (two lac) each as compensation to the LRs of the deceased under Section 544-A Cr.P.C. If they do not pay the fine, they would have to serve an additional six months. The benefit of Section 382-B Cr.P.C. was extended to the convicts.

SS

2. However, the accused, Zulifqar Ali alias Bhutto, was acquitted of abetment and conspiracy charges. Accused Mazhar Ali, s/o Nadar Ali, who did not surrender before the law, was declared a proclaimed offender, and a perpetual non-bailable warrant of arrest was issued.

3. The Hon'ble Peshawar High Court, Peshawar, via a valued judgment passed in Criminal

- Appeal No. 861-P/2020, titled "Riaz Ali & another vs. the State & another",
- Appeal No. 141-P/2020, titled "The State vs. Riaz Ali & another,
- Appeal No. 919-P/2020, titled "Abbas Ali Bangash vs Zulfiqar alias Bhutto". And,
- Criminal revision No. 140-P/2020, titled "Abbas Ali Bangash Vs Riaz Ali & Others".

4. All arising out of the above-referred judgment dated October 13, 2020, passed by my predecessor, the learned Sessions

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Judge, Peshawar, in Sessions Case No. 02/SC of the 2014 trial held of FIR No. 80 dated March 24, 2013 under sections 302/34/109 PPC registered at Police Station Ustarzai, District Kohat The august High Court, while setting aside the impugned conviction and sentence, remanded the trial with directions to remove the anomalies about the statement of the accused under Section 342 CRPC and disposed of accordingly the criminal appeal No. 861-P/2020 titled "Riaz Ali & Another Vs the State & Another.

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5. The criminal appeal No. 141-P/2020, titled "The State Vs. Riaz Ali & Another, the criminal appeal No. 919-P/2020, titled "Abbas Ali Bangash Vs. Zulfiqar alias Bhutto", and the criminal revision No. 40-P/2020, titled "Abbas Ali Bangash Vs. Riaz Ali & Others," were dismissed as infructuous because the leading judgment dated 13/10/2020 on the remand of the case has been set aside.

6. It was also mentioned in the valued judgment that accused/appellants Riaz Ali and Maisam Ali, before the announcement of the impugned judgment, which has been set aside; were on bail; therefore, their previous status was restored, and they were released forthwith on bail on already revived bail bonds, while the acquitted accused Zulfiqar Ali alias Bhutto will also join the trial, whose bail bonds have also been revived.

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7. The Hon'ble Peshawar High Court, Peshawar, has directed this court, given the observations quoted in para. 7 of the valued consolidated judgment, and for ready reference, the same is hereby reproduced:

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*"It was the dire requirement that all such defense witnesses should have been examined for each accused facing trial. Neither verbatim copies in triplicate are available, nor is there any order of the learned trial court that all such defense witnesses are examined for all three accused facing trial, as they have been examined only once. When this anomaly rather illegality was pointed out, the learned counsel for the parties was confronted, they readily accepted it and have proposed that if at all this legal infirmity is not cured with either triplicate copies of these defense witnesses with an order of the learned trial court or such defense witnesses are to be examined separately as witnesses in defense for each accused facing trial then certainly God forbids on conviction, it will be difficult to prove that each accused was even an opportunity of producing separately of the defense witnesses or at least either consent be obtained when these witnesses are examined on behalf of all the accused and the learned trial court has to furnish verbatim copies of each defence witnesses' statement in triplicate".*

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8. Additional statements were recorded from Riaz Ali and Meisam Ali on 20/05/2023 and Zulfikar Ali alias Bhutto on 27/05/2023 under Section 342 Cr. PC. They expressed their intent

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not to testify under oath but to present their defence evidence and rely on defence witnesses (DWs).

9. The defence counsel requested the transposition of defence evidence for all three accused, which was granted after the complainant's counsel raised no objections. Statements of defence witnesses were then transposed in triplicate for each accused, and the defence counsel concluded their case with their statements recorded.

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10. On March 24<sup>th</sup> 2013 at 09:00 hours, on the report of Abbas Ali Bangash s/o Ali Muhammad Bangash, a FIR was registered to the effect that he was posted at General Head Quarters (GHQ) Rawalpindi as a Major in the Pakistan Army, on 23/03/2013 at 20:16 hours, he was informed by his brother Haidar Ali Bangash, Instructor at Cadet College Swat, on his/complainant cell # 0300-5708179, qua the murder of their father, Capt: Ali Muhammad Bangash (retired,) in his village, Ustarzai Payan Kohat. On 23/03/2013, at about 19:25 hours, someone knocked on the left yellow back door of their house, which was towards the barren field with some trees, and in response, Ali Muhammad Bangash, while having his dinner, went outside through the right door of his house. After about 1.5 minutes, the inmates of the house heard firing from the back side of the house. After that, they called Tuj Muhammad, the uncle of the complainant, on the phone, and

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Muhammad came to their house. The house inmates and Taj Muhammad went towards the barren fields and found Ali Muhammad Bangash lying in a pool of blood. The dead body was shifted to Civil Hospital Ustarzai, Kohat, for postmortem examination. He/complainant left Rawalpindi for Kohat via Fateh Jhang Road. He/the complainant returned from Khushal Garh Bridge as it was closed and took Fateh Jhang Attock, Peshawar, and Kohat road. He told Mujtaba Ali SHO Police Station Ustarzai on the phone to wait for him as he wanted to report the matter, and he firmly believed that his co-villagers, namely Zulfiqar Ali alias Bhutto, Mazhar Ali, and Riaz Ali, sons of Nadar Ali, were involved in the murder of his father. The motive behind the occurrence was disputed over Shamilat-e-Deh with the accused party, which was pending in court, and the culprits had given life threats to the deceased many times. The deceased had told the complainant and his other two sons, namely Haidar Ali Bangash and Jehangir Ali Bangash, that if he got killed, it would be the doing of the above-cited culprits. If Zulfiqar Ali, alias Bhutto, was abroad, he was involved in the conspiracy to murder the deceased, and the culprits belonged to the terrorist groups of Orakzai and Khurram Agency. Jehangir Ali Khan Bangash, the complainant's brother, verified that he signed the FIR. Hence, the present case.

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11. Initially, a challan was filed against Zulfiqar Ali, alias Bhutto, and Mazhar Ali under Section 512 of the Criminal Procedure Code and against the accused Riaz Ali and Meisam Ali for the contested trials. On the appearance of accused Riaz Ali and Meisam Ali in court, necessary papers were provided to them as required under Section 265-C Cr. P.C. A charge was framed, to which they pleaded not guilty and claimed trial. Based on the statement of SW-1 Dastan Ali No. 87 DFC police station Usterzai Kohat, proceedings u/s 512 Cr.P.C. were initiated against the absconding co-accused, Zulfiqar Ali alias Bhutto and Mazhar Ali, and the prosecution was allowed to lead evidence in their absence. Later, accused Zulfiqar Ali alias Bhutto was arrested, and his supplementary challan was submitted under Section 265-C Cr.P.C. The necessary documents were also provided to him. Charges against all three accused facing trial were framed, to which they pleaded not guilty and claimed trial.

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12. In the prosecution's case for a murder trial, 16 witnesses were examined. Here's a summarized overview of their testimonies:

Witness Testimonies in Summary and Exhibits in a Murder Case:

1. PW-1/Ifikhar Ali FC No.84:

- Witness Testimony: Transported blood-stained pebbles and garments to FSL, Peshawar.

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- Exhibits: Blood-stained pebbles, blood-stained garments, parcel with 16 empties of 7.62 bores.
- His Statement: Recorded by the IO under Section 161 Cr.PC.

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2. PW-2/Hashmat Ali ASI:

- Witness Testimony: Witnessed the recovery of blood-stained garments and their sealing.
- Exhibits: Blood-stained garments.
- His Statement: Recorded under Section 161 Cr.PC.

3. PW-3/Maqbool Hussain FC No. 67:

- Witness Testimony: Witnessed the recovery of a Kalashnikov and its sealing.
- Exhibits: Kalashnikov, warrants u/s 204 Cr.PC, proclamation notices u/s 87 Cr.PC.
- His Statement: Recorded under Section 161 Cr.PC.

4. PW-4/Aman Ullah Constable No. 88:

- Witness Testimony: Witnessed the recovery of CDs and letters.
- Exhibits: Three CDs, two English letters.
- His Statement: Recorded under Section 161 Cr.PC.

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5. PW-5/Dastan Ali HC No. 87:

- Witness Testimony: Witnessed various recovery memos and handled warrants/proclamation notices.

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- Exhibits: Blood-stained garments, official Kalashnikov, warrants u/s 204 Cr.PC, proclamation notices u/s 87 Cr.PC.
- His Statement: Recorded under Section 161 Cr.PC.

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6. PW-6/Mujtaba Ali SI:

- Witness Testimony: Initiated the FIR, arrested the accused, and submitted challans.
- Exhibits: FIR, card of arrest, interim challan, complete challan.

7. PW-7/Nazeer Khan SHO:

- Witness Testimony: Prepared the inquest report and injury sheet.
- Exhibits: Inquest report of the deceased, injury sheet.

8. PW-8/Dr. Ashfaq:

- Witness Testimony: Conducted a post-mortem examination, documented injuries.
- Exhibits: Post-mortem examination report, injury descriptions.

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9. PW-9/Aftab Javed, then JMIC-VI Kohat:

- Witness Testimony: Conducted identification parades of accused persons.
- Exhibits: Applications for identification parade, identification parade report.

10. PW-10/Gul Janan Inspector:

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- Witness Testimony: Submitted a supplementary challan.
- Exhibit: Supplementary challan.

11. PW-11/Nacem Ullah SI:

- Witness Testimony: Conducted partial investigation, handled CDR evidence, and arrested an accused.
- Exhibits: Call data recording (CDR) related to a mobile phone, letters with CDR data, applications for police custody, mobile data records.

12. PW-12/Wisal PA to SP Investigation:

- Witness Testimony: Witnessed the recovery of court documents.
- Exhibit: Court documents, petitions, letters, and Google maps attached to a letter.

13. PW-13/Muhammad Azam SI:

- Witness Testimony: Handled documents and recorded statements of witnesses.
- Exhibit: Documents consisting of 205 pages.

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14. PW-14/Captain Jehangir Ali Bangash:

- Witness Testimony: endorsed the FIR and provided information regarding threats made to the deceased.
- Exhibits: Father's complaint letter to Magistrate Kohat surety bond.

15. PW-15/Abbas Ali Bangash:

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- Witness Testimony: Recorded the FIR.
- Exhibit: FIR.

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16. PW-16/Mst. Ali Parveen:

- Witness Testimony: Provided an eyewitness account of the incident.
- Her Statement: Recorded under Section 164 Cr.PC.

These exhibits and the witnesses' testimonies constitute the prosecution's comprehensive case in the murder trial.

13. After the close of the prosecution evidence, statements of the accused were recorded under Section 342 Cr.P.C., wherein they professed their innocence and opted not to appear on oath under Section 340(2) Cr. PC, however, wished to produce defence evidence.

14. The accused called upon a total of six defence witnesses, and the critical points of their testimony are summarized as follows:

1. DW-1 Azmat Ullah Khan FC No. 966:

- Testimony: Produced various documents, including an application, an inquiry report, and DD No. 11 dated 28/09/2013.

Exhibits: Application (Ex.DW1/1), inquiry report (Ex.DW1/2), DD No.11 (Mark D1), application (Mark D2).

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## 2. DW-2 Khalid Usman FC No. 1233:

- Testimony: Brought records related to a complaint, such as an application, SHO P.S. Ustarzai report, and a police report regarding ATM card theft.
- Exhibits: Application (Ex.DW2/1), SHO P.S. Ustarzai report (Ex.DW2/2), police report (Mark D2/1).

## 3. DW-3 Atif Naeem Madad Moharrir:

- Testimony: Presented a Roznamcha Register dated 23/03/2013 containing entries about accused Maisem Ali's activities.
- Exhibit: Roznamcha Register with entries (Ex.DW3/1).

## 4. DW-4 Rehman Ali Record Keeper:

- Testimony: Produced records of Muafiz Khana, which were consigned in 2018 from Ishrat Ali, a deed writer.
- Exhibit: Record of Muafiz Khana (Ex. DW4/1).

## DW-5 Ishrat Ali s/o Ghulam Naqi:

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- Testimony: The deed writer of a document involving Ikhtlaq Hussain Kiyani and Zulfiqar Ali Bhutto was confirmed.
- Exhibit: Deed (Ex.DW5/1) with signatures of involved parties and witnesses

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6. DW-6 Ali Nasir Kiyani, s/o Jamshed Ali Kiyani:

- Testimony: As a witness, he was deposed for the accuracy of the deed above (Ex.DW5/1).
- Exhibit: Deed (Ex.DW5/1) with witness signatures

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These defence witnesses and their corresponding exhibits were presented to bolster the accused's case during the trial.

14. The defence was given the opportunity to open arguments since the defence evidence was procured.

Defense Counsel's Arguments:

- The accused are innocent and falsely implicated.
- Presented DW-1 to DW-6 as evidence of innocence.
- The prosecution's witnesses (close relatives) were deemed unreliable.
- There is no convincing justification for FIR delay.
- Lack of independent witnesses
- Disputed recovery of evidence (blood-stained pebbles, empties)
- Official weapon mismatch with recovered empties
- CDR is unrelated to the alleged offence.
- Medical evidence and site plan are inconsistent with FIR.
- The alleged motive for the crime is considered baseless.
- Accused Zulfiqar Ali is not an absconder.

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- Challenged the sanctity of the identification parade.
- Prosecution witnesses are unreliable due to changing testimony.

Prosecution's Arguments:

- **Reliance on Key Witness:** The prosecution emphasized the testimony of PW-16, Ms. Alia Parveen, as a straightforward and convincing witness who provided a cohesive account of the murder.
- **Identification Parade:** Ms. Alia Parveen and her sister, Mst. Maria Parveen, correctly identified Riaz Ali and Maisam Ali during an identification parade, even though they had never seen them before.
- **Credible Witnesses:** The close relatives of the deceased, including PW-14 Jehangir Ali Khan Bangash, PW-15 Abbas Ali Bangash (the complainant), and PW-16 Ms. Alia Parveen, were considered credible witnesses.
- **Explanation for Delay:** The prosecution provided a convincing explanation for the delay in lodging the FIR, citing a solid motive related to a land dispute and legal proceedings under sections 107/151 Cr.P.C. The accused had allegedly threatened the deceased multiple times before the incident.

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- Supporting Evidence: The site plan and medical evidence supported the prosecution's version of events outlined in the FIR.
- Recovery of Empties and Blood-Stained Pebbles: The recovery of 16 empties of 7.62 bore and blood-stained pebbles at the crime scene bolstered the prosecution's case.
- FSL Report and Clothing Evidence: The positive FSL report regarding the blood-stained pebbles and the deceased's last worn clothes further corroborated the FIR's details.
- Abscondence of Accused: The noticeable abscondence of the accused, Zulfiqar Ali alias Bhutto, suggested his involvement in the crime to the extent of abetment.
- Weapon Recovery: The recovery of a Kalashnikov from the personal box of accused Maisam Ali (FC No. 1502) was presented as significant evidence.
- Identification by Searchlight: The identification of the culprits by Ms. Alia Parveen with the aid of a searchlight and hand torch at the time of the incident was highlighted as a critical aspect of the prosecution's case.
- Capital Punishment: The prosecution argued that, given the circumstances of the case, all the accused facing trial deserved capital punishment.

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These bullet points outline the main arguments presented by the prosecution.

15. After weighing the arguments of both sides and examining the record, this court believes that the following are the categories of evidence for reaching a just decision.

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- i. First Information Report (FIR).
- ii. Ocular Account.
- iii. Motive.
- iv. Investigation.
- v. Defence Evidence.

16. Findings:

The primary issue for discussion and determination is that the complainant's learned private counsel, Mr. Hussain Ali, advocate, has asserted that this case was remanded with specific directives as outlined in paragraph-7 of the esteemed judgment. According to Mr. Hussain Ali, this court's scope of action was limited to adhering to these directives, rectifying any identified discrepancies, and essentially reiterating the judgment as previously issued.

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However, this court respectfully disagrees with the presented arguments for the following reasons. The Honorable High Court astutely noted that there was no statement from the learned defence counsel regarding the formal closure of the defence's presentation of evidence, which was presumed to have occurred. The directives explicitly emphasized the necessity that

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all defence witnesses be examined for each accused facing trial. The case was remanded in paragraph 10 of the esteemed judgment, and the previous judgment was set aside.

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It is crucial to recognize that the evaluation of the defense's testimonies cannot be conducted in isolation from the prosecution evidence that has already been introduced. On remand, this Court is obligated to comprehensively assess all available evidence, both prosecution and defence, in accordance with the directives issued by the Honorable High Court. This ensures a thorough and unbiased examination of the case, with due consideration given to the complexities and nuances presented during the trial.

When a case is remanded, it means that the lower court must review the case again, address the issues or concerns raised by the higher court, and take appropriate actions to rectify any errors or deficiencies. This may involve conducting additional hearings, reevaluating evidence, or revisiting legal arguments.

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**First Information Report (FIR):**

In criminal cases, the First Information Report (FIR) catalyzes state action when a cognizable crime is reported. Established legal guidelines emphasize the prompt filing of an FIR as a fundamental parameter for assessing its legitimacy and accuracy. In this case, the incident transpired on March 23, 2013,

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at 19:30 hours, but the FIR was lodged on March 24, 2013 at 09:00 hours, approximately 14 hours later. Major Abbas Ali Bangash, the complainant and son of the deceased, Ali Muhammad Bangash, initiated the FIR. According to the FIR, he received word of his father's murder via a distress call from his brother, Haidar Ali Bangash. However, he encountered delays due to a traffic jam and returned to Fateh Jang, reaching PS Ustarzai on March 24, 2013, at 09:00 hours.

Without delving into other merits, this Court sees the substantial delay in reporting the matter. Several unresolved questions or issues in the FIR include:

- Why didn't the deceased's brother and complainant's uncle, Taj Muhammad, report the matter to the police?
- Why did the house occupants who called Taj Muhammad not contact the police directly?
- Why didn't the police take immediate action upon receiving the deceased's body at Civil Hospital Ustarzai?
- Why was it recorded in the FIR that the complainant directed the police not to lodge the FIR, intending to handle the matter personally?

These omissions and questions highlight that the FIR was not promptly filed as required to establish its credibility and authenticity. When charging the accused, the complainant relied

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on suspicion rather than an ocular account. Additionally, the FIR didn't mention the complainant's sisters as eyewitnesses, which later emerged as a significant aspect of the case.

Furthermore, it's noteworthy that the complainant suggested charging Zulfiqar Ali, alias Bhutto, with aiding the murder and directly holding him responsible, both based on assumptions and conjecture. These imperfections indicate that the FIR was not meticulously prepared, negatively impacting the case from the outset.

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Reliance is placed on: 2009 P Cr. LJ 971 [Peshawar] titled "Hathi Khan Vs Muhammad Hashim Khan & 02 Others,

*Ss. 302/324/34 —Criminal Procedure Code (V of 1898), S.417 (S-A) —Appeal against acquittal: Benefits of doubt inordinate delay of 3-1/2 hours in lodging the FIR. —Intervening period of time was consumed in consultation and deliberation before charging accused. Presence of witnesses on the spot at the time of occurrence, had become doubtful in circumstances—Medical evidence also did not corroborate the statements of eye-witnesses—Nine empties of 7.62 bore recovered from a single weapon, which could mean that assailant was one and who was that of two nominated accused, was in mystery which further suggested that witnesses had not seen the occurrence—Benefit of doubt arising in the case would go to both accused persons.*

*[Signature]*  
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The other cases on the point of law are:

"Gulzada Vs Gul & others" [2019 P Cr.LJ 1627 (Peshawar - Mingora Bench)],

"Javed Khan Vs The State & 02 others" [2023 P Cr.LJ Note 17 (Peshawar - Bannu Bench)],

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"Zahireen & another Vs The State through AAG & others" [2023 P Cr.LJ 998 (Peshawar - Mingora Bench)], and

"Muhammad Sadiq Vs The State" [2017 SCMR 144 (Supreme Court of Pakistan)].

Eyewitness Account:

The pivotal testimonies of the complainant's sisters, Mst. Alia Parveen and Maria Parveen, were introduced into the case seven days after the incident. Both provided eyewitness accounts under Section 164 of the Cr.PC and identified the accused during an identification parade. Mst. Alia Parveen, as PW-16, recounted that on the fateful evening, they were in the kitchen preparing tea when their father was shot. From a distance, they saw the assailants firing Kalashnikov rifles while lit up by flashlights. However, questions arise regarding the credibility of this late introduction of an eyewitness account. The FIR did not initially reference their eyewitness status, and the complainant failed to inquire about the details with them or other household members when the police arrived. The decision to present her as an eyewitness likely aimed to bolster the case, originally based on circumstantial evidence.

During cross-examination, Mst. Alia Parveen admitted to not describing the culprits before the identification parade, and she mentioned an unrecorded detail about one accused wearing a police uniform during the crime. She also disclosed meeting the complainant when the police arrived, raising doubts about the

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delay in sharing her eyewitness account with him. Additionally, considering the proximity of the accused's residences, it's puzzling why Alia Parveen was unfamiliar with their faces. These circumstances cast uncertainty on the accuracy of their identification, even if other aspects of their account are considered true.

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Guidance is taken from 2009 P Cr.LJ 997 [Lahore] titled "Muhammad Inran Vs The State".

*-Art. 22--Identification parade--Principle--Evidence of identification parade would lose its efficacy and cannot be relied upon if prosecution witnesses would not describe the role played by each of the accused at the time of commission of the offense. The same would be the position if prosecution witnesses, while making statements in court, would did not attribute any individual role to the accused played by them during the occurrence.*

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The delay in recording the statement under 164 Cr.P.C. by the eyewitness and charging the accused for the commission of the crime is raising serious doubts in the prosecution version. The identification parade became meaningless as 7 days were sufficient to show the accused to the eyewitness.

**Investigation:**

In this case, the role of the investigation officer (IO) is crucial, and any lapses in their duties can significantly affect the case's integrity. The complainant, Abbas Ali Bangash (PW-15), initiated the case based on information received from his brother

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Haidar Ali, who was then posted in Swat. The source of this information remained unknown to the complainant.

Inspector Zeenat Hussain (PW-17) conducted the investigation. He revealed that another brother of the complainant, Jehangir Ali Khan, had visited the family home before reporting the incident at the police station. However, none of the sisters had informed the investigators that they had witnessed the accused individuals who are now on trial for the murder. This omission created a significant gap in the case facts.

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The IO acknowledged several deficiencies in the investigation. Notably, he had failed to conceal the faces of the accused when they were arrested and transported from the police station to the court. Moreover, the eyewitnesses, while expressing their ability to identify the culprits if presented before them, had not provided detailed descriptions or explained the roles of each accused in their statements. This omission is pivotal and impacts the case's foundation.

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Furthermore, the IO's site plan (Ex.PB) indicated the presence of obstructive trees (*Ujar Khait Darakhtan*) at the crime scene, suggesting limited visibility from the kitchen to the place of occurrence. This critical detail should have been thoroughly examined and documented during the investigation, as it directly affects the credibility of eyewitness accounts.

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It's crucial to note the recovery of spent bullet casings (empties) from the scene of the occurrence. Ideally, these empty casings should match the type of weapon used and recovered in the offence. However, in this case, the recoveries suggest that they originated from a single weapon, while charges have been levied against three individuals. This inconsistency raises doubts about the accuracy of the charges and the adequacy of the investigation.

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In summary, the failure to gather detailed descriptions from eyewitnesses before identification and the incongruity in the recoveries of spent bullet casings cast significant shadows of doubt on the case's veracity.

Guidance is derived from: 2022 P Cr.LJ 338 titled "*Alam Khan & others Vs The State*."

Motive:

The motive for the murder was allegedly a civil dispute between the complainant's father and the accused, particularly Zulfiqar Ali, alias Bhutto. The victim had reported threats from the accused in a police report, and documents confirmed the ongoing legal dispute.

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However, during cross-examination, it was revealed that the deceased had not only issues with the accused but also with his own son, Abbas (complainant). Abbas denied writing letters against his father in 2010 and disagreed with certain details about his wedding, indicating strained family relations. Witnesses from

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the defence also presented evidence of tension between the victim and various family members.

The accused is facing a murder charge because of a civil dispute. The dispute was of such magnitude to cause murder that fact was not proved and is creating doubt, as, on the other hand, the complainant himself was not on good terms with his deceased father. Ultimately, the motive for the murder remained unclear, casting doubt on the prosecution's version, and it is, therefore, held not established in the circumstances.

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According to 2010 SCMR 97 titled "Noor Muhammad Vs The State":

*B. Motive: When motive is alleged but not proved, then the ocular proof is required to be scrutinized with great caution. C: Motive—Prosecution though not called upon to establish motive in every case. Yet once it has set up a motive and fails to prove the same, then prosecution must suffer the consequence and not the defence.*

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When the motive is alleged but not proved, the ocular proof must be scrutinized with great caution. Similarly, in 2016 PCrLJ N-111 [Peshawar], the mandate set down is that prosecution, though not called upon, establish a motive in every case. Yet once it has set up a reason or motive and fails to prove the same, the prosecution must suffer the consequence and not the defence.

To sum it up, while there is evidence of a legal dispute between Abbas' father and the accused, there's also evidence of a

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complicated family relationship. This complexity makes it unclear what exactly drove the crime.

2020 P Cr. LJ 1589 [Sindh (Hyderabad Bench)] titled "Jamal Khan Vs The State" is another valuable authority on the point.

Post Mortem:-

Dr. Ashfaque RHC (PW-8) conducted a post-mortem examination and confirmed that he had performed the examination on the deceased Ali Muhammad Bangash. It is important to note that the post-mortem report primarily serves the purpose of establishing the cause of death, which, in this case, was determined to be death by fire. However, it should be emphasized that a mere post-mortem report alone is insufficient to establish the guilt of the accused in connection with the commission of the crime. To prove the accused's involvement, there must be additional incriminating and connecting evidence, which is currently lacking in this case.

Defence Evidence:-

In this murder case, the defense presented six witnesses to highlight the strained relationship between the deceased father and his son (the complainant). Their intention was to show that the father and son were not on good terms, which in turn raises questions about whether someone other than the accused could have been responsible for the murder. To support their claim, the

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defense introduced various documents through the custodian of these records.

One of the crucial pieces of evidence came from Khalid Usman (DW-2), who presented Ex.DW2/1, a three-page application, along with SHO PS Ustarzai's report dated 12/10/2010, Ex.DW2/2, and photocopies of a complaint under Section 107/151 Cr. PC. Ex.DW2/1 contained an application from the complainant himself, leveling severe accusations against his deceased father and describing him as a psychopath. The contents of this complaint indicate that the relationship between the father and son was strained and severely deteriorated. This raises doubt about the motive attributed to the accused facing trial, creating a mystery about the true motivation behind the crime.

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Further defence evidence was presented regarding Maisam Ali's presence on duty during the crucial event. DW-3 provided records to support this claim. To that extent, the defence claim remained un rebutted and shattered.

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Notably, despite being the first to approach the deceased's body, the deceased's brother did not appear as a complainant or witness in the case. The court infers a negative outcome or infraction from his absence in accordance with Article 129 of the Qanoon-e-Shahdat Order (1984), as the prosecution essentially abandoned him. This principle is based on the understanding that

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if his testimony favored the prosecution's case, he would not have been excluded from their list of witnesses.

In the current case, the prosecution has also not examined the dead body identifiers and has abandoned them as unnecessary. Reliance is placed on 2018 YLR Note 192 [Peshawar] titled "Shehriyar Vs Zair Ullah & Another".

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*"—Said witness had not been shown as witnesses in the inquest report or the postmortem Report to have identified the dead body before the police and the Medical Officer.—Two other persons were shown to have identified the dead body of deceased before the police as well as before the Medical Officer, but they were abandoned by the prosecution as unnecessary. Non-production of both the identifiers of the dead body by the prosecution tended to create doubt about presence of the eyewitnesses at the spot at the time of occurrence".*

17. The crux of the investigation, along with facts on the motive, medical account, defence evidence, and ocular account, have caused this court to believe that the prosecution case has severe flaws. The accused has not confessed before the court, and no recovery of the crime weapons was affected at the time of pointation by the accused facing trial.

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18. It has been observed in the reported case of *Nour Shah Gul Vs Asim Ullah PLD 2015 Peshawar 01*,

"It is the cardinal principle of administration of criminal justice that prosecution is bound to prove its case beyond any shadow of a doubt; if any reasonable doubt arises in the

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prosecution's case, the benefit of the same must be extended to the accused not as a matter of grace or concession but as a matter of right."

Likewise, it is also a well-embedded principle of criminal justice that there is no need for so many doubts in the prosecution case; rather, any reasonable doubt arising out of the prosecution evidence, pricking the judicious mind, is sufficient for acquittal of the accused. The principle enshrined in Islamic Jurisprudence 1400 years ago is that "it would be better to acquit a hundred culprits than convict one innocent soul".

Now it has been transformed into the principle that "acquitting by error would be better than convicting by error". The same commandment has evolved into the theory of the benefit of the doubt, which, invariably, is extended to the accused to meet the ends of justice. The law on the point is also furnished

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Muhammad Khan vs. The State, 1999 SCMR 1220, Muhammad Ikram vs. the State 2009 SCMR 230, Jihad Ali Vs Riaz Ali, 2014 P Cr.LJ 1559; Peshawar Riasat Ali vs. the State 2013 YLR 272 Lahore; and Muhammad Ashraf alias Acchee vs. The State, 2019 SCMR 652 are other valuable authorities on the point.

19. As the prosecution evidence is full of doubts about the role of the accused in the crime, they deserve straight acquittal.

20. The accused, Riaz Ali s/o Nadar Ali, Faisal Ali s/o Riaz Ali, and Zulfiqar Ali alias Bhutto s/o Nadar Ali, all r/o Ustar Zai

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Payan Tehsil & District Kohat, charged under sections 302/34/109 PPC, FIR No. 80, police station Ustarzai Kohat, dated March 24, 2013, are acquitted of the charges brought against them due to a lack of proof. The accused are out on bail, their bail bonds are revoked, and the sureties are released from their bail bond obligations.

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21. However, based on the available evidence, there is a prima facie case against accused Mazhar Ali, s/o Nadar Ali, r/o Ustarzai Payan Kohat. Therefore, he is declared a proclaimed offender. A perpetual non-bailable warrant for his arrest is issued. His name shall be entered in the register maintained for the POs. The case property shall be kept intact until his arrest and trial. However, if there appears to be any genuine request for the return of any case property, that would be dealt with accordingly.

22. Record be returned along with a copy of this judgment. Files should be consigned to record room after completion and compilation.

Announced  
16/09/2023.

*Ashfaque Taj*  
ASHFAQUE TAJ  
Sessions Judge, District & Sessions Judge,  
Peshawar

CERTIFICATE

Certified that this judgment consists of twenty nine (29) pages. Each page has been read, checked, corrected where necessary and signed by me.

No:	54884
Date:	28-9-23
No. of Pages:	P-30
Signature:	<i>Ashfaque Taj</i>
Dated of Preparation:	28-9-23
Date of Delivery:	28-9-23

*Ashfaque Taj*  
ASHFAQUE TAJ  
Sessions Judge, Peshawar.  
District & Sessions Judge,  
Peshawar

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بعدالت نظر حضور ڈیڑھ سہ گھنٹہ کی اجازت



پنجاب - Appellate  
بنام انی جی سی سی

موسم علی

موزخہ  
مقدمہ  
دعوی  
جرم

Service appl / 2021

باعث تحریر آئندہ

باعتبار اس کے  
باعتبار اس کے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ  
آن مقام پر کیے گئے۔  
مقرر کرنے کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کال اختیار ہوگا۔ نیز  
دیکل صاحب کو راستی نامہ کرنے و تقرر ثالثہ فیصلہ پر حلف دینے جواب دہی اور اقبال دعوی اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک درو پیا عرضی دعوی اور درخواست ہر قسم کی تصدیق  
زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور دیکل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ  
پر داخستہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو دیکل صاحب پابند ہوں گے۔ کہ پیروی  
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ مستور ہے۔

المرقوم \_\_\_\_\_ ماہ \_\_\_\_\_ 20

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واہ العبد \_\_\_\_\_ مقام

HASSAN-U.K. AFRIDI  
ADVOCATE OF SUPREME COURT  
Enl-5040

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Musam Ali  
appeler