


FORM OF ORDER SHEET

Court of _____

Appeal No. 604/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/04/2024	<p>The appeal of Mr. Muhammad Ghyas Qureshi presented today by Mr. Muhammad Aslam Tanoli Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on . Parcha Peshi given to the counsel for the appellant .</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

A. No. 604/2024

Muhammad Ghyas Qureshi Ex-FC No. 249, District Police Haripur
R/o Village Kalas, P.O. KTS, Tehsil & District Haripur.... **(Appellant)**

VERSUS

1. District Police Officer, Haripur.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. Provincial Police Officer Khyber Pakhtunkhwa Peshawar
.....**(Respondents)**

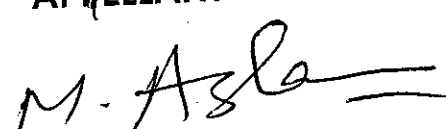
SERVICE APPEAL

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APPELLANT

THROUGH


(MUHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
ABBOTTABAD

Dated: 29-4-2024

①

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No..... *A - No. 604/2024*

Muhammad Ghyas Qureshi Ex-FC No. 249, District Police Haripur
R/o Village Kalas, P.O. KTS, Tehsil & District Haripur.... **(Appellant)**

VERSUS

1. District Police Officer, Haripur.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. Provincial Police Officer Khyber Pakhtunkhwa Peshawar
.....**(Respondents)**

**SERVICE APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT
1974 AGAINST ORDER DATED 30-10-2019 OF THE DISTRICT POLICE
OFFICER HARIPUR WHEREBY APPELLANT HAS BEEN DISMISSED FROM
SERVICE AND ORDER DATED 12-10-2020 OF THE REGIONAL POLICE
OFFICER HAZARA REGION ABBOTTABAD WHEREBY APPELLANT'S
DEPARTMENTAL APPEAL HAS BEEN FILED/REJECTED AND ORDER
DATED 22-03-2024 (DELIVERED ON 15-04-2024) OF THE PROVINCIAL
POLICE OFFICER KPK PESHAWAR WHEREBY REVISION PETITION OF
PETITIONER HAS BEEN REJECTED.**

**PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL ALL THREE
ORDERS DATED 30-10-2019, 12-10-2020 AND 22-03-2024 OF THE
RESPONDENTS MAY GRACIOUSLY BE SET ASIDE AND APPELLANT BE
REINSTATED IN HIS SERVICE FROM THE DATE OF DISMISSAL WITH ALL
CONSEQUENTIAL SERVICE BACK BENEFITS.**

Respectfully Sheweth:

1. That appellant while posted at Police Lines Haripur and availing 02 days C/Leave on "Eid" at Home situated at Village Kalas Haripur was falsely involved in a criminal case vide FIR No. 487 dated 07-10-2014 u/s- 302/324/148/149 PPC registered at PS KTS Haripur.

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2. That appellant was allowed post bail and released from jail on 09-02-2015, he then joined his duties. On 17-09-2018 the ASJ-V Haripur convicted and sentenced the appellant to suffer 07 years imprisonment. Appellant aggrieved of this conviction filed a criminal appeal before Hon'able Peshawar High Court circuit bench Abbottabad. Appellant was on bail and performing his official duties, during pendency of criminal appeal and without waiting out-come of this criminal appeal, the District Police Officer Haripur dismissed him from service vide his order dated 30-10-2019 despite the fact that Inquiry Officer had already suggested that inquiry be kept pending till decision of the criminal appeal by the Court against appellant. **(Copies of Inquiry Report and dismissal order dated 30-10-2019 are attached Annexure- "A & B")**.
3. That appellant aggrieved of dismissal order filed a departmental appeal dated 28-11-2019 before the Regional Police Officer, Hazara Region, Abbottabad which was rejected vide order dated 12-10-2020. **(Copies of departmental appeal & its rejection order 12-10-2020 are attached as Annexure "C & D")**.
4. That appellant's criminal appeal against his conviction was decided by Hon'able Peshawar High Court circuit bench Abbottabad vide order dated 13-09-2022 and its attested copy was issued on 28-09-2022. **(Copy of Court Order dated 13-09-2022 is attached as Annexure-"E")**.
5. That on acquittal and obtaining order from the court the appellant filed a Revision Petition dated 11-10-2022 before the Provisional Police Officer, KPK Peshawar for his

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reinstatement in service which was rejected vide order dated 22-03-2024 and its copy was delivered to him on 15-04-2024 and that too on his specific written request. Appellant was neither charged nor convicted by ASJ-V, Haripur u/s-337 A-(ii) or sentenced one (01) imprisonment with Arsh amount of 100,000/- as has been alleged in impugned order dated 21-10-2020 and order 22-03-2024 of respondents No. 02 & 03 respectively. Appellant was even acquitted vide decision dated 13-09-2022 by Peshawar High Court Circuit Bench Abbottabad u/s 15AA registered at PS KTS Haripur vide FIR No.487 dated 07-10-2014. **(Copies of Revision Petition dated 11-10-2022, its rejection order dated 22-03-3024 and Application dated 15-04-2024 & Acquittal Order in 15AA dated 13-09-2022 are attached as Annexure "F, G, H & I").**

6. That in fact when occurrence took place on 07-10-2014, the appellant was on 02 days leave (i.e. 06 & 07-10-2014) to celebrate "Eid" at his Home in village Kalas Haripur. The Appellant was innocent and falsely involved in this criminal case.
7. That Hon'able Peshawar High Court Circuit Bench Abbottabad while disbelieving prosecution evidence set aside conviction order and acquitted the appellant of the charge vide judgment/order dated 13-09-2022.
8. That appellant rigorously pursued his departmental revision petition by filing applications through registered post on 21-11-2023 and 28-12-2023 for decision of revision petition and issuance of its copy. **(Copies of applications and registry receipts are attached as Annexure "J&K").**

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9. That appellant has rendered more than 13 years service in the police department. He always performed his duties with devotion and honesty to the entire satisfaction of his officers and never provided a chance of reprimand. Appellant has meritorious record at his credit.
10. That proper departmental inquiry was not conducted. He was also not provided with inquiry report. Even appellant was not afforded with the opportunity of cross examination and personal hearing before awarding major punishment of dismissal from service and he was condemned unheard. Hence instant service appeal, inter alia, on the following grounds.

GROUND:-

- A) That impugned orders dated 30-10-2019, 12-10-2020 and 22-03-2024 of the respondents are illegal, unlawful against the facts, departmental rules and regulations and principle of natural justice hence liable to be set aside.
- B) That proper departmental inquiry was not conducted. Inquiry report, if any, was not given to appellant. Even the appellant was not provided with the opportunity of cross examination and personal hearing and was awarded major punishment of dismissal from service in serious violation of law, departmental rules & regulations, facts and principle of natural justice.

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- C) That respondents have not treated the appellant in accordance with law, departmental rules, regulations and policy on the subject applicable to the terms and conditions of his service and have acted in violation of Article-4 of the constitution of Islamic Republic of Pakistan 1973 and unlawfully issued the impugned orders which are unjust, unfair hence not sustainable in the eyes of law.
- D) That appellate authority has also failed to abide by the law and even did not take into consideration the grounds taken in the memo of appeal and has rejected the departmental appeal. Thus act of respondent is contrary to the law as laid down in the KPK Police Rules 1934 read with section 24-A of General Clauses Act 1897 and Article-10 of the Constitution of Islamic Republic of Pakistan 1973.
- E) That the allegations leveled against appellant in dismissal as well as appeal/revision petition rejection orders are incorrect. Nothing adverse could be brought on record against the appellant during departmental inquiry to connect him with the crime as attributed to him. The only charge against appellant was his involvement in criminal case for which the Hon'able Peshawar High Court Circuit Bench Abbottabad had acquitted him. He is innocent and there is nothing wrong on his part.
- F) That after acquittal in criminal case for which he was dismissed from service the appellant deserved to have been reinstated in service but department authorities never gave weight to the court orders.

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G) That instant service appeal is well within time and this honorable Service Tribunal has got every jurisdiction to entertain and adjudicate upon the lis.

PRAYER:

It is, therefore, humbly prayed that on acceptance of instant service appeal all the three orders dated 30-10-2019, 12-10-2020 and 22-03-2024 of the respondents may graciously be set aside and appellant be re-instated in service from the date of dismissal with all consequential service back benefits. Any other relief which in the circumstances of the case this honorable Tribunal deems fit may also be granted.

[Signature]
Appellant

Through

[Signature]
(Muhammad Aslam Tanoli)
Advocate High Court
At Abbottabad

Dated: 29-4-2024

VERIFICATION

It is verified that contents of instant service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Dated: 29-4-2024

[Signature]
Appellant

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BEFORE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Muhammad Ghyas Qureshi Ex-FC No. 249, District Police Haripur
R/o Village Kalas, P.O. KTS, Tehsil & District Haripur.... **(Appellant)**

VERSUS

1. District Police Officer, Haripur.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. Provincial Police Officer Khyber Pakhtunkhwa Peshawar
.....**(Respondents)**

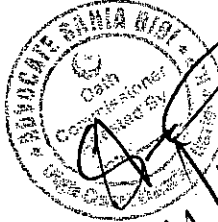
SERVICE APPEAL

AFFIDAVIT

I, Muhammad Ghayas, appellant do hereby solemnly declare and affirm on oath that contents of instant service appeal are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.

ATTESTED

Dated: 29-4-2024



Deponent/Appellant

Identified By:

M. Aslam

(Muhammad Aslam Tanoli)
Advocate High Court
ABBOTTABAD

Dated: 29-4-2024

Appellant

3

BEFORE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Muhammad Ghyas Qureshi Ex-FC No. 249, District Police Haripur
R/o Village Kalas, P.O. KTS, Tehsil & District Haripur.... **(Appellant)**

VERSUS

1. District Police Officer, Haripur.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. Provincial Police Officer Khyber Pakhtunkhwa Peshawar

.....**(Respondents)**

SERVICE APPEAL

CERTIFICATE

It is certified that no such appeal on the subject prior to this one
has ever been filed in this Honorable Service Tribunal or any other
court.

Dated: 29-4-2024


Appellant

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**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Muhammad Ghyas Qureshi Ex-FC No. 249, District Police Haripur R/o Village Kalas,
P.O. KTS, Tehsil & District Haripur.... (Appellant)

VERSUS

1. District Police Officer, Haripur.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. Provincial Police Officer Khyber Pakhtunkhwa Peshawar
.....(Respondents)

**APPLICATION FOR CONDONATION OF DELAY IN FILING INSTANT SERVICE
APPEAL BEFORE THIS HONOURABLE SERVICE TRIBUNAL.**

Respectfully Sheweth:

1. That applicant/appellant has filed today a Service Appeal which may be considered as part and parcel of this application, against order dated 30-10-2019, 12-10-2020 and 22-03-2024 passed by respondents, whereby appellant has been awarded penalty of "dismissal from service" and his departmental appeal as well as Revision Petition had been rejected without jurisdiction and abiding by procedure.
2. That as the orders of departmental authorities have been passed in violation and derogation of the statutory provision of law, departmental rules and regulation governing the terms and condition of appellant's service and fact of the case, therefore, causing a recurring cause of action to the applicant/appellant can be challenged and questioned irrespective of a time frame.
3. That though appellant's Revision Petition was rejected on 22-03-2024 but copy of order was delivered on 15-04-2024 & that too on his written request. The appellant has rigorously been pursuing his case. Therefore, the delay if any, in filing instant service appeal is because of forgoing reasons.
4. That instant application is being filed as an abundant caution for condonation of delay, if any. The impugned orders are liable to be set aside in the interest of justice.

It is, therefore, respectfully prayed that on acceptance of the instant application the delay, if any, in filing the titled appeal may graciously be condoned.

Through

Applicant/Appellant

M. Aslam
(Muhammad Aslam Tanoli)
Advocate High Court
At Abbottabad

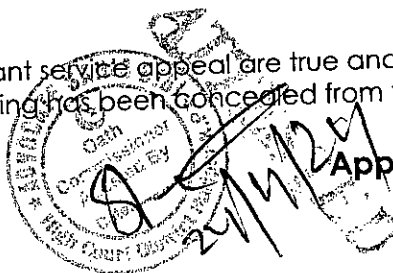
Dated: 29-4-2024

Affidavit.

It is verified that contents of instant service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Dated: 29-4-2024

Applicant/Appellant



﴿فائل انکوائری رپورٹ بر خلاف﴾

غیاث قریشی 1249 ایکٹریشن پولیس لائن ہری پور حال حوالاتی سینٹرل جیل ہری پور

جناب عالی!

انکوائری چارج شیٹ نمبر 19-17 مورخہ 05.01.2015 بر خلاف غیاث قریشی 249 دفتر DPO صاحب سے مورخہ 16.01.2015 کو موصول ہوئی۔

غیاث قریشی کا بیان بزریہ ڈاک موصول ہوا چونکہ یہ کنسٹیبل غیاث قریشی بحوالہ مقدمہ علت 487 مورخہ 07.10.2014 جرم pp302/324/148/149 تھانہ KTS میں گرفتار ہو کر بند حوالات جوڈیشل جیل ہری پور ہے۔ کنسٹیبل نے اپنے جواب میں تحریر کیا کہ وہ مقدمہ میں گرفتار ہو کر بند جیل ہے۔ مقدمہ کے فیصلہ تک اس کے خلاف محکمانہ کارروائی نہ کی جائے سائل موقع پر موجود نہ تھا۔ اور خود پیش ہو کر زبانی عرض معروض کرے گا۔

تاہم یہ کنسٹیبل غیاث قریشی 249 سرکاری ملازم ہے اور پولیس لائن میں تعینات تھا۔ جو بحوالہ مد 21 روز نامہ 06.10.2014 رخصت عید دو یوم پر گھر چھوڑا گیا تھا۔ جو نقل رپٹ ہمراہ لف قابل ملاحظہ ہے۔ جبکہ مورخہ 08.10.2014 کو واپس تھی جو واپس نہ آنے کی صورت میں بحوالہ مد 13 روز نامہ 08.10.2014 اس کی غیر حاضری کی گئی ہے۔ جو نقل رپٹ ہمراہ لف قابل ملاحظہ ہے۔ کنسٹیبل مذکورہ نے اپنی بے گناہی کے بارہ میں کوئی ثبوت پیش نہیں کیا ہے۔ تاہم مقدمہ زیر سماعت عدالت ہے۔ عدالت کے فیصلہ تک اس کی انکوائری پینڈنگ رکھی جائے

ڈی ایس پی انوسٹی گیشن
ہری پور

Attested

District Police Officer
Haripur

Attested
Punjab

(11)

Annex-B

ORDER

FC Electrician Ghyas Qureshi No.249 while posted at Police Lines Haripur was charged in criminal case vide FIR No.487, u/s 302/324/148/149, PPC, Police Station KTS. The complainant Ziafat Hussain charged the accused including Police official Ghyas Qureshi for specific role in the commission of offense. The acts/omissions of accused police official, were misconduct under Khyber Pakhtunkhwa, Police Efficiency and Discipline Rules 1975. Therefore, he was issued show cause notice vide this office Memo No.168 dated 28.10.2014, to which the appellant could not give satisfactory reply, and requested for the pendency of departmental proceedings till decision of the criminal case by the competent court.

The charges were of severe nature, in which accused police official was directly charged in FIR. Therefore, proper departmental enquiry was initiated by the then District Police Officer, Haripur. The accused police official was issued charge sheet and statement of allegations vide this office Endst: No.17-19/PA dated 05.01.2015. Deputy Superintendent of Police, investigation Haripur, Mr. Aziz Khan was appointed as enquiry officer, who conducted the enquiry and submitting his findings in which he held that the accused police official could not prove his innocence. The enquiry officer recommended the pendency of departmental enquiry till decision of case by the trial court. Hence, the enquiry was ordered to be kept pending till conclusion of trial by the trial court.

The court of learned ASI-V Haripur, vide its judgment dated 17.09.2018, convicted the accused with appropriate punishments. The accused police official Ghyas Qureshi was also convicted with rigorous imprisonment for 7 years u/s 324/148/149 PPC. Therefore, he was served with final show cause notice vide this office Endst: No.288-291 dated 28.09.2018, by the then District Police Officer, Haripur. To which accused police official could not give satisfactory reply, similarly the said official was also provided findings of departmental enquiry through SP Central Prison Haripur, vide this office Memo No.7783/OHC dated 10.12.2018.

It is established fact, that the accused police official, who was charged directly in above mentioned criminal case, could not prove his innocence in the court of law. Rather he was awarded rigorous imprisonment for 7 years. And he is undergoing the said punishment in central prison Haripur. The punishment awarded by the court has neither been set aside, nor he was acquitted by the competent forum. In these circumstances the decision of departmental enquiry cannot be kept pending for indefinite period.

Having gone through the enquiry papers, relevant evidence and the judgment of Honorable Court. It is proved that the accused police official has been convicted by the court. So, the charges of misconduct i.e involvement of accused police official Ghyas Qureshi (Convict prisoner) in case FIR No.487 dated 07.10.2014, u/s 302/324/148/149 PPC, Police Station KTS, stands proved beyond any doubt. Therefore, I, Dr. Zahid Ullah (PSP) District Police Officer Haripur, being competent authority under Khyber Pakhtunkhwa, Police Efficiency and Discipline Rules 1975, am fully satisfied that the convict prisoner Electrician Constable Ghyas Qureshi No. 249 has committed gross misconduct. Hence, he is awarded major punishment of dismissal from service.

OB: 720
07.10.2019

Attested

[Signature]

[Signature]
District Police Officer,
Haripur

محفوظ جناب ڈی آئی جی صاحب دسزارہ رجسٹر ایدٹ آباد

حضوران - ہر اے مسیو جی CS-721. DISMISSAL ORDER NO. 30-10-2019

کانٹینیل محمد غیاث قریشی نمبر 249

جیل سپرنٹنڈنٹ صاحب سٹورل جیل عمری پور
ضابطہ نمبر 1

درخواست ذیل سرخ ہے 1
یہ کہ مسائل (حوالاتی محکمہ پولیس میں سرخ 11) سال سے بطور کانٹینیل خدمات سرانجام
دے رہا تھا۔ دوران سروس مسائل کا ریکارڈ مائل صاف ہے۔ مسائل کو عدالت نمبر 487
درجہ 07/10 بجرح 324 تقابلاً KTS میں جاری کیا گیا۔ مسائل مذکورہ عقدے میں
بے نقاہ اور بے شوریہ۔ مذکورہ عقدے میں مسائل درجہ 09/02 کو ضمانت پر رہا ہوا۔
اور اپنی ڈیوٹی پر طفری کرنے کے بعد دوبارہ محکمہ پولیس میں خدمات سرانجام دیتا رہا۔

2۔ یہ کہ مسائل مذکورہ بالا تینوں میں درجہ 17/09 کو عدالت پیشی پر آیا۔ تو مسائل کو ASJ-V
پر پولیس کی عدالت سے (07) سال صیدگی سزا صادر ہوئی۔ مسائل نے مذکورہ مانتوق عدالت کے
فیصلے کے خلاف مشاورتی کورٹ ایٹ آباد پنج ایپل دائر کی۔ اسی دوران مسائل کو محکمہ
طرف سے مائل شوکار ٹونس وصول ہوا۔ مسائل کا جواب دینے کے بعد ضابطہ DPo صاحب
نے مائل کورٹ کے فیصلے تک شوکار ٹونس کو (PENDING) رکھنے کے احکامات صادر کیے۔
(07) سال تک (PENDING) رکھنے کے بعد درجہ 30/10 آرڈر نمبر CS-720 کے تحت ASJ-V
کی سزا کا حوالہ دیکر مسائل کو سروس سے Dismiss کر دیا گیا۔ (کاپی پر لکھی ہے)

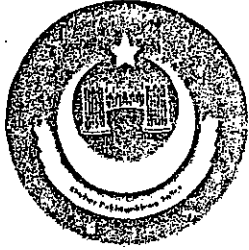
3۔ درجہ 13/11 کو مشاورتی کورٹ ایٹ آباد پنج نے ASJ-V پر پولیس کے فیصلے کو کالعدم کرتے
مسائل کی سزا کو ختم کر دیا اور مذکورہ بالا تینوں کی ازسرنو سماعت کا حکم صادر کیا۔ مذکورہ فیصلے
میں مسائل کو دوبارہ ضمانت دائر کرنے کا بھی حق دیا۔ مذکورہ فیصلے کے بعد مسائل نے درخواست
ضمانت دائر کر دی ہے۔ اور پراہید ہے کہ انشاء اللہ ضمانت پر رہا ہو جائے گا (کاپی پر لکھی ہے)

التجا
لہذا بذریعہ درخواست گزارش ہے کہ درجہ 30/10 آرڈر نمبر CS-720 مسیو جی کیا جائے اور مسائل
کو تیلے کی طرح ضمانت پر رہا کرے تک (SUSPENSION) میں رکھا جائے۔ مسائل کے چھوٹے
بھوتے بچے ہیں۔ جو کہ ناقہ کشی کے عالم میں ہیں۔
مسائل کا خیال۔ اپنی ترقی نوشی اور نوشی ملی کے لیے دعاگو ہے گا

Attested
[Signature]

13

Annex-D



OFFICE OF THE REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

0992-9310021-22

0992-9310023

r.rpohazara@gmail.com

0345-9560687

NO: 25983 /PA DATED 21/10/2020

ORDER

This order will dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 submitted by Ex- Electrician Constable Ghayas Qureshi No.249 of District Haripur against the punishment order i.e. Dismissal from Service awarded by DPO Haripur vide OB No.720 dated 30.10.2019.

Brief facts leading to the punishment are that the appellant while posted at Police Station Sari Saleh was charged in criminal case vide FIR No.487 u/s 302/324/148/149 PPC Police Station KTS. The complainant Ziafat Hussain s/o Said Rasool charged the accused including Police official Constable Ghayas No.249 for specific role in the commission of offense.

The appellant was issued charge sheet alongwith summary of allegations vide Endst: No. 17-19/PA dated 05-01-2015 and DSP Investigation Haripur was deputed to conduct departmental enquiry, however he failed to advance any evidence in his defence before the EO. The appellant was issued final show cause notice, however he failed to advance any cogent reason in his defence. Consequently, DPO Haripur awarded him major punishment of dismissal from service. Hence, the appellant submitted this present appeal.

After receiving his appeal, comments of DPO Haripur were sought and examined/perused. It is established fact that the appellant was directly charged in the instant case and as a result convicted with rigorous imprisonment of 07 years in case u/s 324/148/149 PPC and 01 year imprisonment and fine of Rs. 100000/- in case u/s 337-A (ii). The misconduct perpetrated by the appellant has been established beyond reasonable doubt. The punishment awarded by the competent authority seems genuine. Therefore, in exercise of the powers conferred upon the undersigned under Rule 11-4 (a) of Khyber Pakhtunkhwa Police Rules, 1975 the instant appeal is hereby filed with immediate effect.

SRC/DHC
For n/ action

6904
14/10/20

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

25984

/PA, dated Abbottabad the

/2020.

DPO of HR District Police Officer, Haripur for information and necessary action with reference to his office Memo No.8850/GIB dated 31-12-2019. Service Roll and Fuji Missal containing enquiry file of the appellant is returned herewith for record.

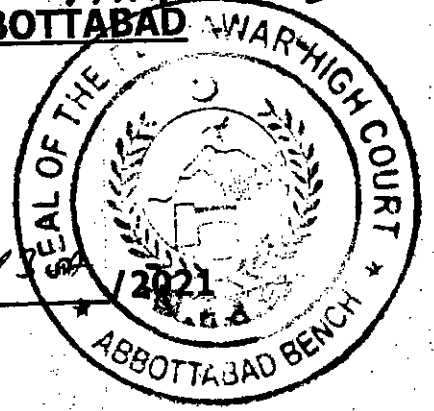
14-x-2020

Attested

[Signature]

(14) Appel E
BEFORE THE PESHAWAR HIGH COURT, ABBOTTABAD

BENCH



Cr. Appeal. No. _____

In Re:

1. Babu Muhammad Younis s/o Gul Zaman resident of Kalas, Tehsil & District Haripur presently, Confined in Central Jail, Haripur.
2. Hafeez ur Rehman s/o Khalilur Rehman resident of Kalas, Tehsil & District Haripur presently, Confined in Central Jail, Haripur.
3. Fazal ur Rehman s/o Gul Zaman resident of Kalas, Tehsil & District Haripur presently, Confined in Central Jail, Haripur.
4. Muhammad Ghayas Qureshi s/o Muhammad Ilyas resident of Kalas, Tehsil & District Haripur presently, Confined in Central Jail, Haripur.

.....Convict/Appellant

VERSUS

1. The State
2. Ziafat Hussain s/o Syed Rasool caste sheikh Resident of Kalas, Tehsil & District Haripur.

....Complainants/ Respondents

*No. 2520
15-04-21*

Appeal

against the judgment dated 05/04/2021 passed in Sessions Case No. 54/VII of 2014 arising out of FIR No. 487 dated 07/10/2014 Under sections 302/ 324/ 334/336/337A II/148/149 PS KTS Haripur, wherein, the convicts/appellants have been convicted and sentenced to various terms of imprisonment and different amounts of fine i.e

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ABBOTTABAD BENCH

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EXAMINER

28/SEP/2022

Peshawar High Court App. Bench
Authorized Under S. 15

*No. 2536
15-04-21*

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

15



Judgment Sheet
IN THE PESHAWAR HIGH COURT, ABBOTTABAD
BENCH
JUDICIAL DEPARTMENT
Cr. Appeal No. 113-A/2021

JUDGMENT

Date of hearing.....13.09.2022.....

Appellants (Babu Muhammad Younis & 03 others) By M/s. Astaghfirullah, Atif Ali Jadoon and Usman Saleem Awan, Advocates.

Respondents. (State) By Sardar Ali Raza, Additional A.G and (Complainant) By M/s. Sardar Muhammad Latif Khan Khosa and Abdur Razzaq Chughtai, Advocates.

WIQAR AHMAD, J.- Appellants (four in number) are aggrieved of their convictions and sentences awarded to them by the learned Additional Sessions Judge-V Haripur vide judgment dated 05.04.2021 in case FIR No. 487 dated 07.10.2014 registered under Sections 302 / 324 / 334 / 336 / 337-A(ii) / 148/ 149 PPC at Police Station KTS Haripur. At the conclusion of trial, they have been convicted and sentenced as under: -

Appellant No.1 (Babu Muhammad Younis) to life imprisonment with a fine of Rs.2,00,000/- payable as compensation to legal heirs of deceased namely, Rafaqat Hussain or in default to suffer further six (06) months S.I.

Appellants No.2 to 4 (Hafeez-ur-Rehman, Fazal-ur-Rehman and

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EXAMINER
28 SEP 2022
Peshawar High Court Atd Bench
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Muhammad Ghayas Qureshi) to seven (07) years R.I for attempting at the lives of Abdul Wahid, Sheikh Adeel and Malik Inayat.

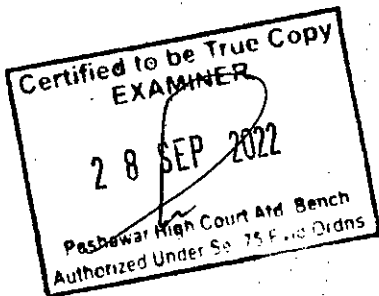
Appellant No.3 (Fazal-ur-Rehman) to three (03) years R.I with payment of Arsh amounting to Rs.2,00,000/- to injured namely, Malik Inayat for causing injuries to him.

Appellant No.2 (Hafeez-ur-Rehman) to one (01) year R.I with payment of Arsh amounting to Rs.1,00,000/- to injured namely, Abdul Wahid for causing injuries to him.

All the sentences were ordered to run concurrently with benefit of Section 382-B Cr.P.C.

As the appellants have been acquitted under Sections 148 / 149 PPC by learned trial court vide same impugned judgment, therefore, complainant (Ziafat Hussain) has filed **Cr.Appeal No. 120-A/2021** against their acquittal.

Furthermore, complainant, being aggrieved of impugned judgment, has also filed **Cr.Revision No. 16-A/2021** for enhancement of sentence of appellant No.1

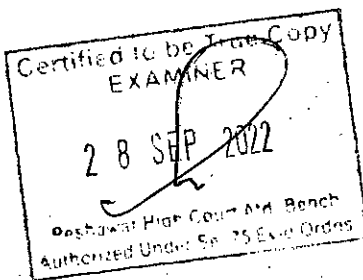


(17)

from life imprisonment to normal penalty of death, besides convicting him for murderous assault to injured namely, (1) Abdul Wahid, (2) Sheikh Adeel, (3) Malik Inayat and (4) Imtiaz-ul-Haq. Similarly, in his referred criminal revision, complainant has also prayed for convicting appellants No.2 to 4 on three (03) counts instead of only seven (07) years R.I on a singular count.

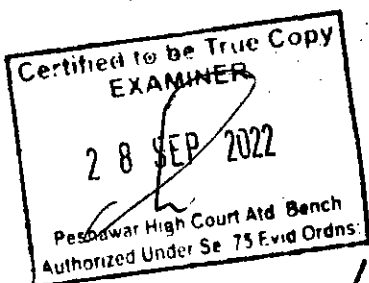
Since the referred appeals as well as criminal revisions are the outcome of a common judgment, therefore, we propose to decide all the three matters together through this single judgment.

2. Complainant namely, Ziafat Hussain (PW-07) while lodging report of the occurrence to Riasat Khan, SI (PW-01) at Emergency Reporting Room of DHQ Hospital Haripur stated that a quarrel had taken place between one of their near relative namely, Mubashir Nawaz with Yasir Maqbool (absconding co-accused) at day time. Their relative (Mubashir Nawaz) had got injured in the quarrel and complainant alongwith his real brother (deceased then alive) namely, Razaqat Hussain, and cousin (Abdul Wahid)



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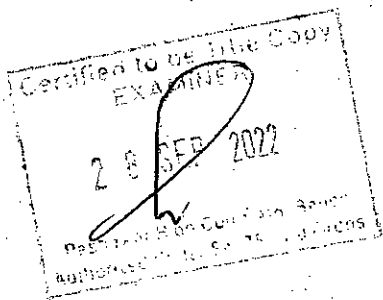
had gone to the house of Mubashir Nawaz for asking about his health. When they were leaving house of Mubashir Nawaz, Imtiaz-ul-Haq (PW-08), Sheikh Adeel (PW-09) and Malik Inayat (PW-10) accompanied them for seeking them off. They reached the grocery store of Yasir Maqbool at 08:15 P.M on 07.10.2014 where they found all the appellants alongwith absconding co-accused (Ghazali and Yasir Maqbool) standing while being duly armed with fire arms. They allegedly started indiscriminate firing upon the complainant party, the moment they noticed them. From firing of appellant No.1 (Babu Muhammad Younas) the deceased namely, Rifaqat Hussain, was stated to have received injuries and died on the spot while as a result of firing of other accused, Imtiaz-ul-Haq, Abdul Wahid, Sheikh Adeel and Malik Inayat had statedly received firearm injuries. The complainant escaped unhurt and the accused fled from the spot after the occurrence. The occurrence was also witnessed by Faisal Rasool (PW-15) and Abdul Shakoor, besides people present on the spot in light of the bulb, lit on the spot. The quarrel that had taken



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place between Mubashir Nawaz and Yasir Maqbool was stated to have constituted the motive for commission of the offence and accordingly all the accused were charged for commission of the offence. Report of the complainant was reduced into murasila Ex.PA/1 on the basis of which the abovementioned FIR was also registered at the Police Station and investigation ensued.

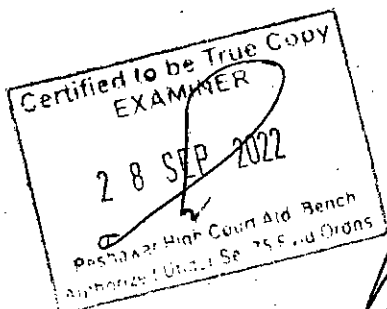
3. During the course of investigation, Investigating Officer prepared site plan Ex.19/1, took into possession bloodstained clothes of deceased vide recovery memo Ex.PW-5/1 alongwith bloodstained clothes of injured vide recovery memo Ex.PW-6/1. He had also taken into possession a 30-bore pistol produced by appellant No.1 (Babu Muhammad Younas) vide recovery memo Ex.PW-13/1, besides preparation of sketch of recovery (Ex.PW-19/2) whereafter Section 15 AA had been inserted into FIR. Investigating Officer had also taken into possession weapon of offence i.e. 30-bore pistol from appellant No.4 (Muhammad Ghayas Qureshi) on his pointation vide recovery memo Ex.PW-12/1, besides preparation of sketch of



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recovery (Ex.PW-19/4). He had dispatched the recovered crime empties alongwith weapons of offence to FSL for chemical analysis and report whereof had been exhibited as Ex.PW-19/21 to Ex.PW-19/24. As during the course of investigation, Sardar Ajmal SI had met natural death, therefore, investigation of the case had been transferred to Muhammad Javed, ASI (PW-17). As per his statement, he had recovered a 30.bore pistol vide recovery memo Ex.PW-16/2 on pointation of appellant (Fazal-ur-Rehman) alongwith three (03) live rounds.

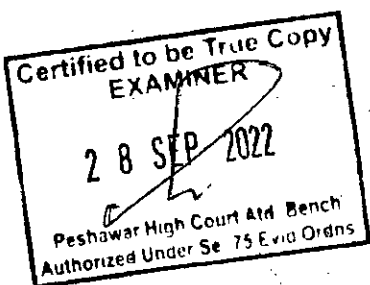
4. On conclusion of investigation, complete challan was submitted before learned trial court. Formal charge was framed against appellants, to which they pleaded not guilty and claimed trial. In order to prove its case, prosecution produced nineteen (19) witnesses, whereafter accused were examined under Section 342 Cr.P.C, wherein they denied the allegations and professed innocence, however, they neither opted to be examined on oath nor produced evidence in their defence. At the conclusion of trial, learned trial Judge convicted appellants vide



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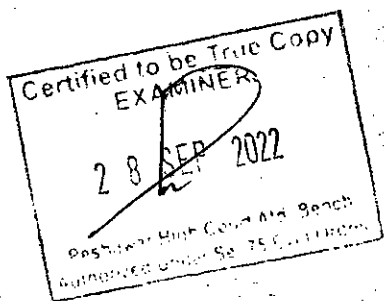
impugned judgment and sentenced as mentioned above. Aggrieved from the findings of learned trial court, the appellants have preferred the instant appeal.

5. Mr. Astaghfirullah, learned counsel representing the appellants submitted during the course of his arguments that as per postmortem report the deceased had received injuries of various dimensions which belied the stance of complainant wherein he had stated that deceased had received firearm injuries from a single person. He also stated that appellant No.1 (Babu Muhammad Younas) is a man of advanced age, who at the time of framing of charge was 65 years of age and, therefore, he being elder of the accused family had not only been wrongly enroped in the case but effective role of making fatal firing on the deceased had also been solely attributed to him. The learned counsel also added that complainant has thrown the net wide by charging six (06) person in the case. He also added that the mode and manner of commission of the offence has not at all been believable.



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6. Sardar Muhammad Latif Khan Khosa, learned counsel representing the complainant, has strongly rebutted arguments of learned counsel for the appellant and contended that the offence had been committed by the accused party in furtherance of their common object and that all the members of the accused-party were equally liable for commission of the offence. The learned counsel added that learned trial court has wrongly acquitted the accused under Sections 148 / 149 PPC, in respect of which the complainant has also filed appeal against their acquittal. He also contended that so far as role of appellant No.1 (Babu Muhammad Younas) is concerned, he had been attributed the role of causing death of a young person namely, Rafaqat Hussain, and no reason for awarding lesser sentence of life imprisonment existed. According to learned counsel, the prosecution has been able to prove guilt of appellant No.1 alongwith other accused beyond reasonable doubt but the reasons advanced by learned trial court for awarding lesser sentence to appellant No.1 and other accused irrational and illogical. The

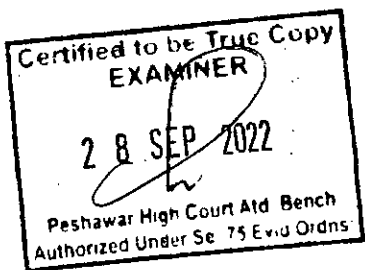


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learned counsel for complainant also placed reliance on the judgments delivered by Hon'ble Supreme Court of Pakistan in the cases of "*Khurram Malik & others Vs. The State & others*" reported as **PLD 2006 SC 354**, "*Miss Najiba & another Vs. Ahmad Sultan alias Sattar & 02 others*" reported as **2001 SCMR 988**, and "*Faisal Mehmood & another Vs. The State & another*" reported as **2010 SCMR 1025**.

7. Sardar Ali Raza, learned Additional Advocate General, supported the arguments of learned counsel for the complainant and additionally submitted that all accused had equally been liable for committing murder of deceased as well as causing injuries to other members of the complainant party and that it was immaterial as to which of the accused played which role in the occurrence because all had joined common object of the unlawful assembly.

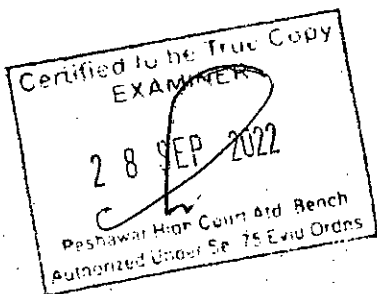
8. We have heard arguments of learned counsel for the parties as well as learned Additional Advocate General and one through the record with their valuable assistance.



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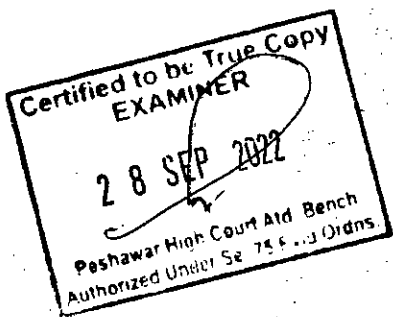
9. Perusal of record reveals that in this unfortunate incident a person had lost his life while four (04) persons had received firearm injuries. Complainant had charged six (06) accused for commission of the offence in which the effective role of causing firearm injuries to the deceased namely, Rafaqat Hussain, had been attributed to appellant No.1. Main story of prosecution, as set out in the FIR, was not found appealing to a prudent mind when said story is put in juxtaposition with the motive advanced by the prosecution, the venue and time of occurrence as well as the manner in which the unfortunate incident had statedly been taken place. The stance of complainant was also not found due corroboration from the medicolegal report particularly of the deceased, prepared after his examination.

10. Before appreciating the evidence, it is necessary to have a glance over the site plan prepared by the Investigating Officer and brought in evidence as Ex.PW-19/1. Shop of absconding co-accused Yasir Maqbool is situated on the main road, leading from North to South and same is also lying at the corner



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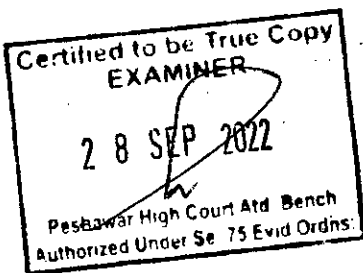
of another street joining the main road. At some distance towards north house of Mubashir Nawaz is situated. Motive for commission of the offence, as stated by the complainant, was that a quarrel had taken place between Mubashir Nawaz and Yasir Maqbool, wherein Mubashir Nawaz had received injuries and the complainant party had gone to his house for enquiring about his health. They left the house of Mubashir Nawaz on the day of occurrence, where Imtiaz-ul-Haq, Sheikh Adeel and Malik Inayat (injured PWs) also accompanied the complainant and his deceased brother and came in the thoroughfare towards South side. On reaching the shop of absconding co-accused namely, Yasir Maqbool, they find accused party comprising of six (06) persons at the shop of Yasir Maqbool, who started indiscriminate firing on them, as a result of firing made by one of the appellants namely, Babu Muhammad Younas, the deceased namely, Razaqat Hussain, received injuries and died at the spot while as a result of firing of rest of the accused the remaining complainant party received firearm injuries.



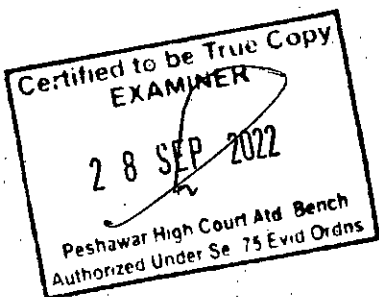
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The complainant and PW Abdul Wahid escaped unhurt whereas accused fled away after commission of the offence.

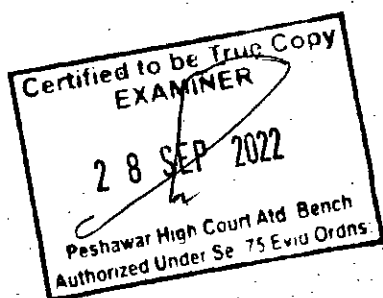
11. In support of the stance, prosecution has been relying upon the evidence furnished by eyewitnesses. The complainant got his statement recorded as PW-07 where in his examination in chief he has narrated the story as mentioned above except with the only noticeable change that time of occurrence has been stated as 08:50 PM in examination in chief. Cross was reserved on 13.02.2017 and then conducted on 01.04.2017. In cross-examination the witness stated that house of Malik Inayat (PW-10) was situated towards north of the house of Mubashir Nawaz while shop of Yasir Maqbool was situated towards south of the house of Mubashir Nawaz. It was also admitted by the witness correct that another thoroughfare was available, leading from the house of Mubashir Nawaz towards the village side other than the road passing in front of the shop of Yasir Maqbool. It was also admitted correct that said way was also being used by people of the vicinity including the complainant party. Witness denied the



suggestion that they had gathered at the house of Mubashir Nawaz for the purpose of conspiring to attack Yasir Maqbool etc for taking revenge of the injuries of Mubashir Nawaz. It was also denied that they had gathered at house of Mubashir Nawaz while being duly armed with firearms. He had also been cross-examined on this line ahead, in response to one of the questions, he answered that had they been armed then none of the accused party would have escaped their firing. It was also denied that the members of complainant party had made firing at the shop of absconding co-accused Yasir Maqbool. The suggestion that 5 / 6 persons could not be accommodated in the shop of Yasir Maqbool, where freezer and showcases had also been lying in the shop, was also denied by this witness. Regarding an application filed under Section 22-A Cr.P.C by the accused party, the witness stated that said application had been dismissed by the court. He also denied the suggestion that it was humanly not possible to identify role of causing injuries of each of the accused during an indiscriminate firing. The witness had also



been cross-examined regarding place where the bulb had been installed and lit at the time of occurrence. The witness had also agreed that he had not stated at the time of lodging first report of the occurrence or in his examination-in-chief that during the occurrence, the accused or deceased had changed their positions. It was also brought in his cross-examination that prior to the occurrence they had crossed the shop of Yasir Maqbool which was opened when they were proceeding towards house of Mubashir Nawaz, but no alteration whatsoever had taken place. At the close of his examination-in-chief the witness stated that he had not tried to pick up his deceased brother then injured, who had been lying on the ground, while the other PWs were trying to lift him. The witness volunteered that he had been standing there and had remained unhurt. Almost on similar pattern and lines all the other PWs have been cross-examined.

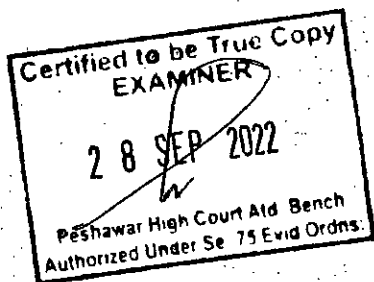


12. Presence of PWs cannot be challenged particularly presence of the injured PWs, who had injuries on their person. Though learned counsel for the appellants

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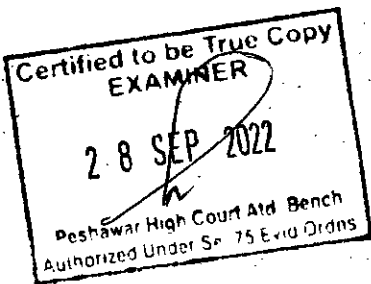
have raised questions regarding presence of the complainant but at the same time it had repeatedly been suggested to him that he alongwith other members of the complainant party had got together at the house of Mubashir Nawaz and launched an attack on the accused party. Complainant had also accompanied the deceased to the hospital and lodged the report with reasonable promptitude. In the given circumstances, presence of complainant at the spot cannot be doubted.

13. We are now left with the question of proof of mode and manner of the occurrence by the prosecution as well as the roles played by respective appellants in commission of the offence. In this respect, it is important to be noted that the complainant as well as the other PWs have assigned the role of causing firearm injuries to deceased then alive namely, Rafaqat Hussain, to appellant No.1. Particular target of the complainant seems to be appellant No.1, who was a person of advance age i.e. 58 / 59 years at the time of occurrence. He also appears to be elder of his family. One of the witnesses namely,



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Imtiaz-ul-Haq (PW-08) has even stated in his examination-in-chief that appellant No.1 had come out of Yasir Maqbool shop while being armed with pistol and had made firing at the deceased. In his cross-examination, he denied the suggestion that he had been improving his version dishonestly in his court statement in this regard. This witness was also verifier of FIR and seconded the version of complainant as taken in the FIR. In the site plan, appellant No.1 has been shown at point No.3 i.e. a place outside the shop and in the street wherefrom six (06) empties had also been shown recovered. Such an assertion of this witness, coming out of the shop and making firing at the deceased, could not be found in first report of the occurrence wherein it had been stated that the accused-party had made indiscriminate firing at the complainant party, and firing of appellant No.1 was stated to have proved fatal in hitting the deceased. Evidence of prosecution in this respect that the deceased has received firing from appellant No.1 at the same place of his presence from the same position of appellant No.1 is also not getting support from the

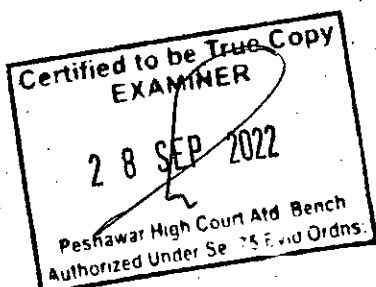


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medico-legal report. The doctor while appearing in the court as PW-03 has stated that he had found as a result of postmortem examination of the deceased that he had received the following injuries:-

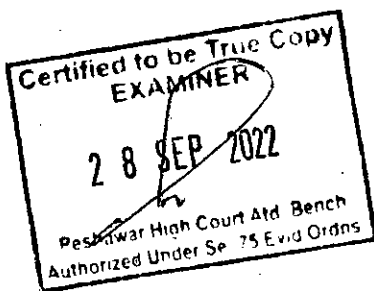
- i. Firearm injury 1 x 1 cm at right side of base of neck, 1 inch above to clavicle.
- ii. Firearm injury $\frac{1}{2}$ x $\frac{1}{2}$ cm, 1 inch below to lateral to right nipple.
- iii. Firearm injury $\frac{1}{2}$ x $\frac{1}{2}$ cm at mid of epigastrium.
- iv. Firearm injury 2 inches x $\frac{1}{2}$ cm on right lateral chest at 8th rib with liver part exposed and out.
- v. Firearm injury $\frac{1}{2}$ x $\frac{1}{2}$ cm on left thigh, 7 inches below to iliac crest.
- vi. Firearm injury 1 x 1 inch on right side of back 2 inches medial to scapula.
- vii. Firearm injury 1 x 1 cm on left side to T-12 (adjacent).
- viii. Wound measuring 1 x 1 cm on left foot on dorsal area.

In his cross-examination, the doctor has stated that in his postmortem report he had not mentioned which of the injuries received by the deceased had been entry or exit wounds. He also stated that he had not



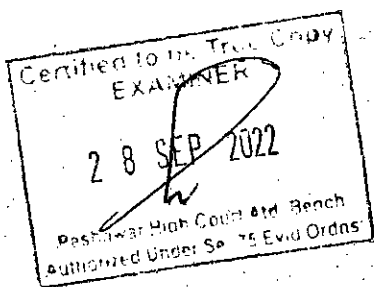
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recovered any foreign body during autopsy. The injuries mentioned by doctor do not show, which of the injuries had been entry or exit wounds but no explanation is available on record, why had such important fact not been mentioned in the postmortem report. The injuries also seem to be of different dimensions and it cannot be safely concluded that such injuries had been received from a single fire shot of a person standing in same position while making firing at the deceased, who had also not been shown to have changed his position at the time of firing. Besides, it is not appealable to a prudent mind how had the complainant been able to identify the particular fire shots which had hit the deceased, in a situation where all the accused have been firing at the complainant party indiscriminately. The fact that appellant No.1 was standing outside the shop and making firing at the deceased solely had subsequently been introduced in the case at the time of preparation of the site plan on following day of the occurrence and a similar improvement had also been noticeable in the statement of injured eyewitness namely,



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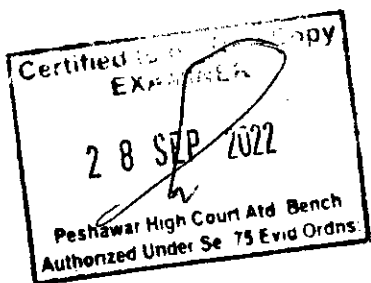
Intiaz-ul-Haq. Evidence of prosecution in this respect was not found believable. Appellant No.1 was also not having a specific reason for making firing at the deceased because if we keep the motive as alleged by the prosecution in perspective, we find that one of the accused namely, Yasir Maqbool had quarreled with relative of the deceased namely, Mubashir Nawaz. It was a quarrel between young men and the fact that said quarrel, wherein Mubashir Nawaz got injured, had been taken so seriously by appellant No.1 and other members of the accused party to have decided to form an unlawful assembly and make an ambition for the accused party (which at the relevant time was not accompanied by the injured Mubashir Nawaz) and to have launched such a lethal attack on them, does not stand to reason and logic. Besides, the complainant alongwith his deceased brother (Rafaqat Hussain) and PW Abdul Wahid had gone to house of Mubashir Nawaz injured where they had just spent about twenty (20) minutes as disclosed by PW-8 and PW-9. Then three (03) persons from the house of Mubashir Nawaz



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accompanied them till shop of Yasir Maqbool which was lying at 2 / 3 minutes walk and that also for seeing them off. Complainant was belonged to same village. Such a see off also does not seem appealable. In the given circumstances, we are not convinced that the prosecution has come forward and placed the mode and manner of occurrence before the learned trial court in its totality. Certain facts have been suppressed and other added so as to enrope the accused appellants, particularly the elder family members of the accused-party, which phenomena, existing in our society, cannot be brushed aside in absence of concrete and reliable evidence sufficient for bringing home guilt of the appellants. In this respect reliance may be placed on the judgment delivered by Hon'ble Supreme Court of Pakistan in the case of "Ata Muhammad & another Vs. The State & another" reported as 1995 SCMR 599 wherein it has been held;

"We are also aware of the growing tendency on the part of the complainant party that whenever there are more than one accused, the complainant would often assign major role or fatal injury to

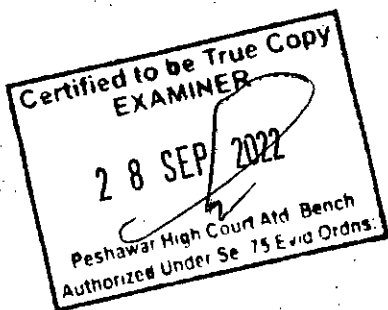


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the head of the family or a person who is most active and dynamic amongst them so that he may not be able to pursue the case of the accused. Therefore, the reasonable possibility of the false implication of the appellants or false attribution of fatal shot to Atta Muhammad and fire-arm injury to Muhammad Yousaf on account of enmity, cannot be excluded."

The other appellants have just been assigned general role of firing and it is difficult to ascertain whose fire hit which of the injured.

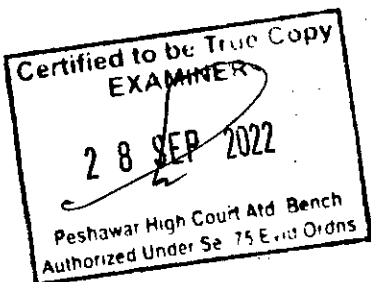
14. Besides, when main story of the prosecution qua mode and manner of occurrence was found disbelieved as it could not be ascertained that who were the actual participants and who played the active role, as assigned to them by the complainant itself, benefit would go to all the appellants. In this respect the Hon'ble Supreme Court of Pakistan while delivering its verdict in the case of "Muhammad Rafique alias Feeqa Vs. The State" reported as 2019 SCMR 1068 has held that as "recovery of the crime empty appears to be planted, casting serious doubt



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on the mode and manner in which the crime was investigated by the police, which had relatable effect upon the entire prosecution's case put up during the trial." This court while following the dictum laid down by Hon'ble Supreme Court of Pakistan in the case of "Mst. Shazia Bibi alias Sharjika Bibi Vs. The State & another" reported as 2021 YLR 777 [Peshawar] has held;

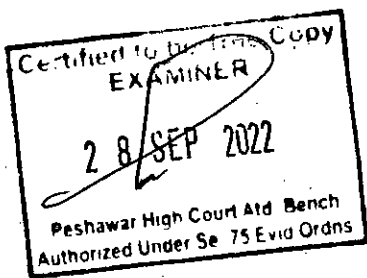
"Admittedly, the complainant stated that she was a house wife and initially no mobile was there in her possession to contact the co-accused and also the prosecution did not collect the Call Data Record to substantiate the affair between the two, even otherwise the mode and manner of the occurrence is shrouded in mystery and till end it could not be ascertained as to how and who was the actual culprit and as such the entire case is the outcome of hypothesis without any legal proof and when this is the situation then the benefit of doubt if any must be extended to the accused."



15. Learned counsel for the complainant as well as learned Additional Advocate General had led great stress on the issue that

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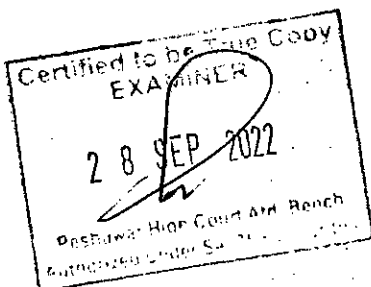
the learned trial court had wrongly made acquittal of the appellants under Sections 148/ 149 PPC. According to them, the prosecution had established making of an unlawful assembly and commission of the offence in furtherance of common object thereof. In same vein they had also argued that when this fact was established then the burden of prosecution to establish the particular role played by each appellant at the time of commission of the offence would get lighter, because under the principle encapsulated in Sections 148 / 149 PPC all members of unlawful assembly shall be deemed to have committed the offence themselves and thereby acquired same criminal liability. Complainant has stated in his first report that when they left house of Mubashir Nawaz and reached the shop of Yasir Maqbool they noticed all the accused present there, who had made indiscriminate firing upon them. PWs have also given similar narrations. Said story of the prosecution was found not believable in light of motive advanced by the prosecution. Besides, there has not been any other evidence of the



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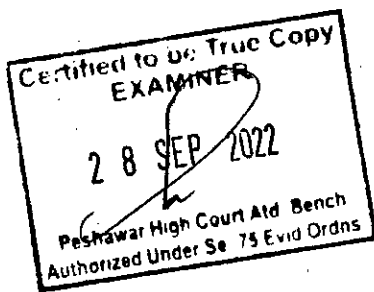
accused making an unlawful assembly for pursuing an unlawful common object. Sardar Muhammad Latif Khan Khosa, learned counsel representing the complainant, referred in this respect to a statement in cross-examination of the complainant, wherein he had stated that before going to the house of injured they had crossed shop of Yasir Maqbool where no altercation had taken place. The learned counsel wanted to pursue this court to presume that Yasir Maqbool had noticed presence of the complainant party, proceeding towards house of injured and informed the appellants, who had made preparations for commission of the offence and on their return had made firing upon them, but we are afraid we would not be able to draw such a farfetched presumption and that also against the accused in a criminal case, moreso, when the complainant party was not having a particular motive for making such a preparation against the deceased or injured.

16. So far as recovery of weapons of offence from appellant No.1, 3 & 4 are concerned, it is necessary to note that from



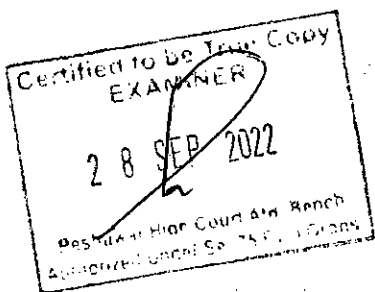
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appellant No.1 (Babu Muhammad Younas) a 30.bore pistol has been shown recovered on his pointation from secret cavities of cupboard, however, after eight (08) days it had been mentioned in the *Zimni* that same was recovered from beneath the mattress of the bed. As per prosecution, appellant No.1 has been shown arrested on 09.10.2014 from his house while on the same day allegedly a 30-bore pistol had also been shown recovered from him on his pointation, which is not appealable to a prudent mind, besides presence of complainant inside his house in close vicinity, after such a serious and gruesome occurrence and being charged for effective role of causing murder also appears to be strange. Similarly, recovery of a 30.bore pistol has also been shown recovered on pointation of appellant No.3 (Fazal-ur-Rehman) but it is important to be noted that he had been arrested on 16.05.2015 while the alleged recovery of pistol had been shown recovered on his pointation on 18.05.2015. During the course of evidence, Siddique (constable) while appearing in the witness box as PW-02 had admitted as correct that



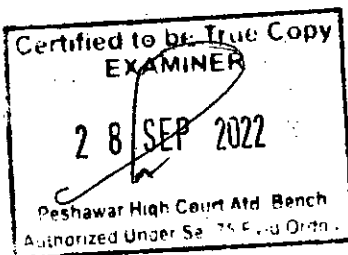
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the Investigating Officer had not prepared the sketch of the place of recovery. While confronting with his examined in chief, when asked from this witness about height of bushes, he had failed to describe its height, which creates doubt about his presence with the Investigating Officer at the time of recovery. Likewise, Muhammad Javed, ASI while appearing in the witness box as PW-03 had also responded in the same lines by not properly describing the height of bushes wherefrom allegedly the pistol had been recovered rather when he was confronted with a question qua non-mentioning of date and time on the card of arrest as well as non-preparation of sketch of recovery, he admitted as correct that under the Police Rules mentioning of date on the card of arrest and preparation of sketch of recovery was mandatory. So far as recovery of weapon of offence i.e. 30.bore pistol from possession appellant No.4 (Muhammad Ghayas Qureshi) is concerned, it is necessary to be mentioned that Investigating Officer of the case namely, Sardar Ajmal, SI had met his natural death and on his behalf one Muhammad Munir



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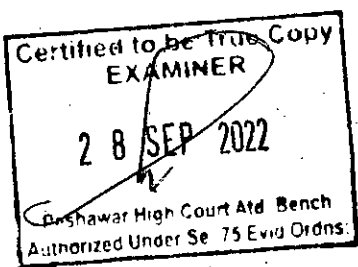
Khan, Inspector CTD appeared in the witness box as PW-04, who just confirmed signatures of the I.O on every document. The only evidence in this case will be testimony of marginal witnesses to the recovery memo Ex.PW-2/1. Out of two marginal witnesses namely, Muhammad Ehsan s/o Abdul Fattah and Zahid Iqbal s/o Ghulam Rasool, only Muhammad Ehsan had been produced in the court as PW-02. He during his examination has stated that accused while in handcuff had led the police to the graveyard of the village and from the bushes he took out and produced one 30.bore pistol to the I.O upon which the latter had made initial with nail, whereafter his statement under Section 161 Cr.P.C had been recorded. This witness during his cross-examination has admitted as correct that in the recovery memo Ex.PW-2/1 the I.O had shown his and other marginal witness presence at the time of disclosing about weapon of offence by the appellant No.4 but in the first lines he has stated that he had been working in DC Office Haripur while on the day of recovery at 07:30 A.M when he was going for performance of his duties, the



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police had met with him and thereafter the alleged recovery had been effected. The evidence furnished by this witness is not appealable to a prudent mind. Besides, it has also been held by the Hon'ble Supreme Court of Pakistan that the corroboratory evidence of recovery of weapons etc can only be taken into consideration when the direct evidence is found trustworthy and believable. Reliance is placed on the judgment given in the case of "Noor Muhammad Vs. The State and another" reported as 2010 SCMR 97 where it has been held;

"Even otherwise the recovery of crime empty or rifle with matching report of F.S.L is a corroborated piece of evidence, which by itself is not sufficient to convict the accused in the absence of substantive evidence. Reference is invited to Ijaz Ahmed V. State 1997 SCMR 1279. It was held in the case of Asadullah Muhammad Ali PLD 1971 SC 541, that corroborative evidence is meant to test the veracity of ocular evidence. Both corroborative and ocular testimony is to be read together and not in isolation. In the case of Saifullah V. The State 1985 SCMR 410, it was held that when there is no



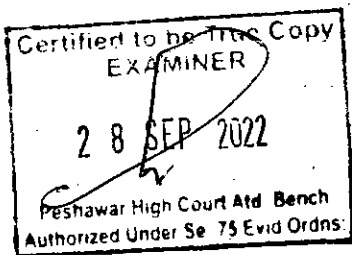
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eyewitness to be relied upon, then there is nothing which can be corroborated by the recovery."

17. From the above discussed evidence, it has become clearer than crystal that case of the prosecution is full of doubts and while acquitting an accused even a single doubt is sufficient. Reliance in this respect may be placed on the judgments delivered by the Hon'ble Supreme Court of Pakistan in the cases reported as **1997 SCMR 449** and **2007 SCMR 1825**.

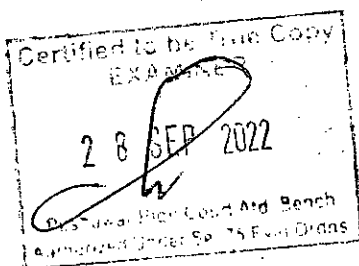
Further reliance in this respect may also be placed on the judgment delivered by Hon'ble Supreme Court of Pakistan in the case of "*Muhammad Akram Vs. The State*" reported as **2009 SCMR 230** where it has been held;

"The nutshell of the whole discussion is that the prosecution case is not free from doubt. It is an axiomatic principle of law that in case of doubt, the benefit thereof must accrue in favour of the accused as matter of right and not of grace. It was observed by this Court in the case of *Tariq Pervez v. The State* 1995 SCMR 1345 that for giving the benefit of doubt, it



was not necessary that there should be many circumstances creating doubts. If there is circumstance which created reasonable doubt in a prudent mind about the guilt of the accused, then the accused would be entitled to the benefit of doubt not as a matter of grace and concession but as a matter of right."

18. In view of what has been discussed above, we are of the firm view that prosecution has miserably failed to establish its case against the appellants. Resultantly, on allowing of the instant appeal, benefit of doubt is extended to appellants and they are accordingly acquitted of the charges levelled against them. These are the detailed reasons for our short order of the even date, which reads: -



"For reasons to be recorded later, this appeal is allowed. Conviction and sentence of appellants namely, (1) Babu Muhammad Younas s/o Gul Zaman, (2) Hafeez-ur-Rehman s/o Khalil-ur-Rehman, (3) Fazal-ur-Rehman s/o Gul Zaman and (4) Muhammad Ghayas Qureshi s/o Muhammad Ilyas, recorded

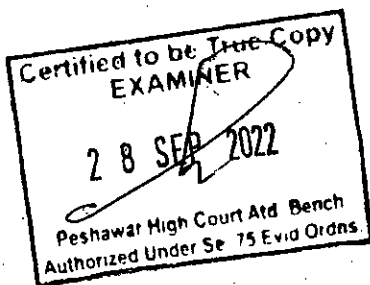
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by learned Additional Sessions Judge-V Haripur vide judgment dated 05.04.2021 in case FIR No. 487 dated 07.10.2014 registered under Sections 302 / 324 / 334 / 336 / 337-A(ii) / 148 / 149 PPC at Police Station KTS Haripur, is set-aside and appellants are acquitted of the charges, leveled against them. They be set free from Jail forthwith, if not required in any other case."

19. So far as appeal against acquittal and criminal revision filed by complainant for enhancement of sentence of the appellants are concerned, as we have disbelieved the prosecution evidence (discussed above), therefore, both these petitions have become infructuous and are disposed of accordingly.

Announced:
13.09.2022.

JUDGE



JUDGE

Justices Ijaz Anwar and Wiqar Ahmad

"Saif. CS"

(46)

Annex-F

**BEFORE PROVINCIAL POLICE OFFICER KHYBER
PAKHTUNKHWA PESHAWAR**

(Revision petition by Muhammad Ghyas Qureshi FC No. 249 District Police Haripur)

REVISION PETITION ON THE BASIS OF "ACQUITTAL" FROM CRIMINAL CHARGE BY HONOURABLE PESHAWAR HIGH COURT BENCH ABBOTTABAD VIDE ORDER DATED 13-09-2022 AGAINST ORDER DATED 30-10-2019 PASSED BY DPO HARIPUR WHEREBY APPELLANT WAS DISMISSED FROM SERVICE AND ORDER DATED 12-10-2020 OF THE RPO, HAZARA REGION, ABBOTTABAD UNDER WHICH HIS DEPARTMENTAL APPEAL WAS REJECTED.

PRAYER: ON ACCEPTANCE OF INSTANT REVISION PETITION ORDER DATED 30-10-2019 OF DPO HARIPUR AND 12-10-2020 OF RPO HAZARA REGION ABBOTTABAD MAY KINDLY BE SET ASIDE AND APPELLANT BE RE-INSTATED IN SERVICE FROM THE DATE OF HIS DISMISSAL WITH ALL CONSEQUENTIAL SERVICE BACK BENEFITS.

Respected Sir,

With most respect and reverence the following few lines are submitted for your kind consideration and favorable orders:-

1. That appellant has served the police department for about 13/14 years. Appellant always performed his assigned duties with zeal, zest, devotion, dedication and honesty to the entire satisfaction of his officers and never provided a chance of reprimand. Appellant has meritorious service record at his credit.
2. That appellant while posted in Police Lines Haripur was wrongly and falsely involved in a criminal case FIR No.487 dated 07-10-2014 u/s-302/324/148/149 PPC registered at PS KTS Haripur.
3. That appellant was granted bail and released from jail on 09-02-2015 and he joined his duties. On 17-09-2018 the ADJ-V Haripur convicted and sentenced appellant to suffer 07 years imprisonment. Appellant aggrieved of the conviction order filed a criminal appeal before the Peshawar High Court circuit bench Abbottabad. After conviction appellant was issued a Show Cause Notice but was ordered to be

Attested

[Signature]

kept pending till the decision of appeal by High Court. The said Show Cause Notice was kept pending for a period of one year but subsequently while appellant performing his official duties was dismissed from service vide order dated 30-10-2019 by the DPO Haripur in the light of conviction order dated 17-09-2018 of the ADJ-V Haripur without waiting the result of criminal appeal from High Court. **(Copy of dismissal order dated 30-10-2019 is attached as "A").**

4. That appellant aggrieved of the dismissal order filed a departmental appeal before the Regional Police Officer, Hazara Region, Abbottabad which was rejected vide order dated 12-10-2020. **(Copies of appeal and its rejection order dated 12-10-2020 is attached as "B&C").**

5. That appellant's criminal appeal against his conviction order has been decided by Honourable Peshawar High Court circuit bench Abbottabad vide order dated 13-09-2022 attested copy of which has been issued on 28-09-2022. **(Copy of order dated 13-09-2022 is attached as "D")**, hence instant departmental appeal.

6. That allegations leveled against the appellant on the basis of FIR and Conviction Order in the Show Cause Notice as well as Dismissal Order etc are incorrect, baseless and false, against the facts and based malafide having no nexus with truth.

7. That as the Honourable Peshawar High Court circuit bench Abbottabad while disbelieving prosecution evidence has set aside conviction of appellant and has acquitted him of the charge vide judgment/order dated 13-09-2022 which causes fresh cause of action to file instant departmental appeal for his reinstatement in service with all consequential service back benefits.

Attested
R. J. J. J.

8. That during departmental inquiry appellant had been exonerated of the charge and declared innocent by the inquiry officer but appellant was dismissed from service on the basis of conviction/sentence passed by the trial court. Now

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when the Honourable Peshawar High Court vide order dated 13-09-2022 has set aside the very conviction order and acquitted the appellant of the charge leveled against him deserves to be reinstated in service.

9. That appellant is totally innocent and had discharged his official duties with devotion, dedication and honesty and never involved himself in any criminal case but still he was awarded with major punishment of dismissal from service without any cause or justification. There is nothing wrong on the part of appellant.

In view of the aforementioned facts it is earnestly requested that order dated 30-10-2019 of the DPO Haripur and order dated 12-2020 of RPO HR Abbottabad may kindly be set aside and appellant be re-instated in service from the date of dismissal with all consequential service back benefits. Appellant shall pray for your good health and long life. Thanking you sir in anticipation.

Yours Obedient Servant

(Muhammad Ghayas Qureshi)
Constable No.249
District Police Haripur

Address:

Village: Kalas, P.O. KTS
Tehsil & District Haripur
Mobile No.0312-5313993

Dated: 11-10-2022

Attested

(Signature)



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Annex-9

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-Electrician FC Ghayas Quraishi No. 249. The applicant was dismissed from service by DPO Haripur on the grounds that he while posted at PS Sarai Saleh was charged in criminal case vide FIR No. 487 dated 07.10.2014 u/s 302/324/148/149/334/336/337-A(iii) PPC PS KTS. The complainant Ziafat Hussain s/o Said Rasool charged the accused including Police Official Constable-Hafeez No. 695 for specific role in the commission of offence.

The Appellate Authority i.e. RPO Hazara filed his appeal vide order No. 25983/PA, dated 12.10.2020.

He was convicted with rigorous imprisonment of 07-years u/s 324/148/149 PPC and 01-year imprisonment with fine of Rs. 100,000/- u/s 337-A (iii) by the court of Addl: Sessions Judge-V, Haripur vide judgment dated 05.04.2021. He was acquitted by the Peshawar High Court, Abbottabad Bench vide judgment dated 13.09.2022.

Meeting of Appellate Board was held on 01.03.2024 wherein petitioner was heard in person. The petitioner contended that the FIR is frivolous & he is innocent.

Perusal of enquiry papers revealed that the allegations leveled against the petitioner has been proved. The petitioner failed to submit any cogent reason in his self-defense. The Board sees no ground and reasons for acceptance of his petition, therefore, his petition is hereby rejected.

Sd/-

AWAL KHAN, PSP
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 597-602 /24, dated Peshawar, the 22-03-2024.

Copy of the above is forwarded to the:

1. Regional Police Officer Hazara. Service Roll along-with Fauji Missal containing Enquiry File of the above named Ex-FC received vide your office Memo: No. 4789-90/1, dated 02.03.2023 is returned herewith for your office record.
2. District Police Officer, Haripur.
3. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. Office Supdt: B-IV CPO Peshawar.

DSP Legal -
OHC/SRC/BI
In memo as per law

DR/HK
23/3/24

(PARLIAN KHAN) PSP, QPM
AIG Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Alistered
JMB in

1208
28/5/22

خدمت جناب ڈسٹرکٹ پولیس آفیسر صاحب ضلع پری ٹورا

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Annex - H

جناب عالی!

انٹرنیشنل پیپل سائنس کالج پولیس کا لازم تھا اور ایک دفعہ میں گناہ
دلوں سے بڑھ کر گناہ جس سے سائنس کو گناہ سے گورنمنٹ DISMISS کر دیا تھا
میں نے خلاف سائنس کے اسٹڈی جنرل آف پولیس صاحب کے لیے
یہ سائنس کے لیے ہو گیا ہے۔

بزرگوار ڈسٹرکٹ پولیس آفیسر صاحب کو نائن مہینہ ایپل کی فراہمی
کے لیے درخواستیں ارسال کی ہیں اور ان کے لیے سیکورٹی فراہم کرنے کے لیے
میں نے درخواستیں ارسال کی ہیں اور ان کے لیے سیکورٹی فراہم کرنے کے لیے

الکافریں

الحمد لله

حضرت الشیخ محمد صالح بن عبد الوہاب
غیاث قریشی و علامہ الشیخ محمد صالح بن عبد الوہاب

Per Law

Attested

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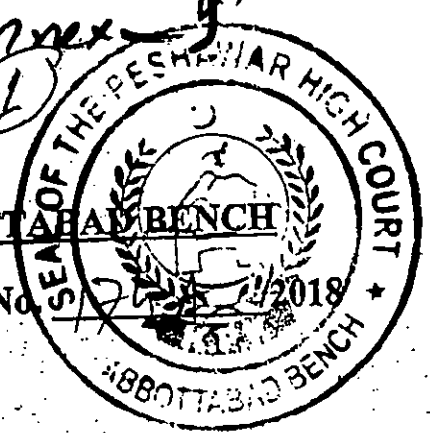
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Received
At
15/04/2024

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Annex 1



BEFORE THE PESHAWR HIGH COURT, ABBOTTABAD BENCH

Cr. Appeal. No. 7

In Re:

Muhammad Ghayas Qureshi s/o Muhammad Ilyas resident of Kalas, Tehsil & District Haripur presently, Confined in Central Jail, Haripur.

.....CONVICT/APPELLANT

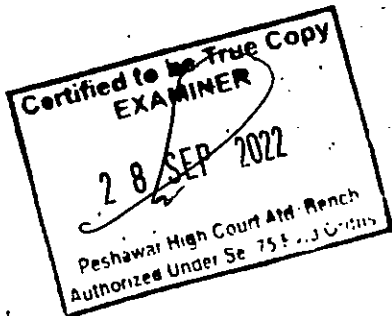
VERSUS

1. The State
2. Ziafat Hussain s/o Syed Rasool caste sheikh Resident of Kalas, Tehsil & District Haripur.

....COMPLAINANTS/ RESPONDENTS

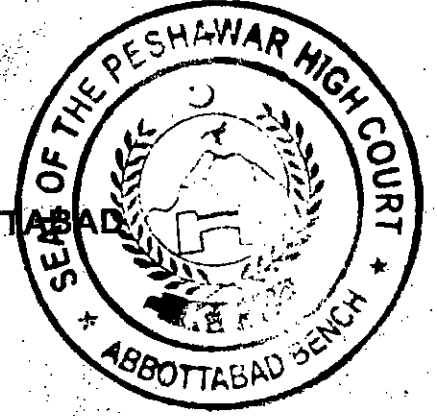
Appeal :

against the judgment dated 17/09/2018 passed in Case No. 236/7 of 2014 arising out of FIR No. 487 dated 07/10/2014 Under section 15AA, PS KTS Haripur, wherein, the convict/appellant has been convicted and sentenced for 3 years imprisonment and sentenced to pay fine of rupees 3000 or in default payment of fine to suffer RI of one month, AND, praying that the impugned judgment be graciously set-aside and the appellant be acquitted of all the charges leveled against them.



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Judgment Sheet
IN THE PESHAWAR HIGH COURT, ABBOTTABAD
BENCH
JUDICIAL DEPARTMENT
Cr. Appeal No. 174-A/2018



JUDGMENT

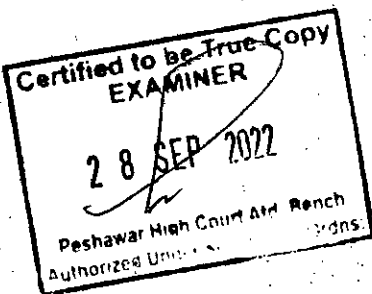
Date of hearing.....13.09.2022.....

Appellant (Muhammad Ghayas Qureshi) By M/s. Astaghfirullah,
Atif Ali Jadoon and Usman Saleem Awan, Advocates.

Respondents. (State) By Sardar Ali Raza, Additional Advocate
General.

WIQAR AHMAD, J.- This criminal appeal is directed against the judgment dated 17.09.2018 passed by learned Additional Sessions Judge-V Haripur in case FIR No. 487 dated 07.09.2014 registered under Section 15 of the Khyber Pakhtunkhwa Arms Act, 2013 at Police Station KTS Haripur, whereby appellant (Muhammad Ghayas Qureshi) has been convicted and sentenced to three (03) years imprisonment with a fine of Rs.3,000/- or in default to suffer rigorous imprisonment for one month with benefit of Section 382-B Cr.P.C.

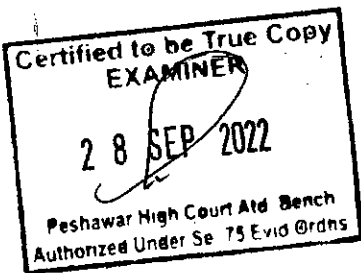
2. As per prosecution story, during interrogation in the main case FIR No. 487 dated 07.10.2014 registered under Sections 302 / 324 / 334 / 336 / 337-A(ii) / 148 / 149



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PPC at Police Station KTS Haripur, on 31.10.2014 appellant had led the police party to a graveyard situated at Mauza Kales and in presence of the marginal witnesses produced crime weapon i.e. 30.bore pistol, wrapped in a plastic bag, which had been taken into possession by the Investigating Officer vide recovery memo Ex.PW-2/1 and sealed into parcel by affixing the monogram of "AS" thereon, followed by insertion of Section 15 of the Khyber Pakhtunkhwa Arms Act, 2013 in the FIR.

3. After arrest of the accused and completion of investigation, challan was submitted before the learned trial court. Formal charge was framed against the appellant, to which he pleaded not guilty and claimed trial. In order to prove its case, the prosecution produced four (04) witnesses, whereafter the accused was examined under Section 342 Cr.P.C, wherein he denied the allegation and professed innocence, however, he neither opted to be examined on oath nor produced evidence in his defence. At the conclusion of trial, learned trial Judge

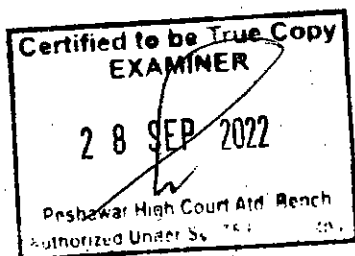


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convicted and sentenced the appellant as mentioned above. Aggrieved from the findings of learned trial Judge, appellant has filed the instant appeal.

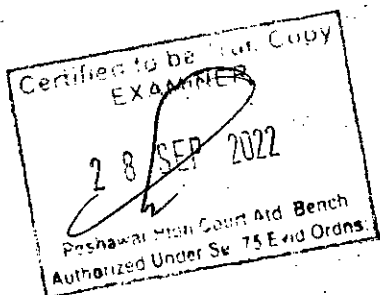
4. We have heard arguments of learned counsel for the appellant as well as learned Additional Advocate General and gone through the record.

5. Perusal of record reveals that appellant had been arrested in the main case on 13.10.2014, who, during the course of investigation, on 31.10.2014 had disclosed about production of weapon of offence and allegedly Investigating Officer of the case in presence of marginal witnesses namely, Muhammad Ehsan s/o Abdul Fattah (PW-02) and Zahid Iqbal s/o Ghulam Rasool (not produced at the trial) had recovered a 30.bore pistol (P-1) from him. Out of the two marginal witnesses, prosecution had only recorded statement of Muhammad Ehsan (PW-02) whereas as per statement of Muhammad Munir Khan Inspector (PW-04) Investigating Officer of the case namely, Sardar Amjad, SI, had met his natural death and he only

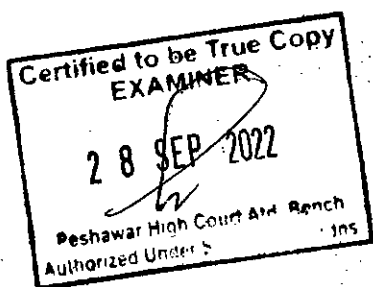


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recognized his handwriting and signatures. In this view of the matter, the most important testimony in this case would be statement of Muhammad Ehsan (PW-02). He during his examination-in-chief had stated that in his presence, being marginal witness to the recovery memo, the I.O had taken into possession a 30.bore pistol, whereupon the I.O had put his signature with nail. During his cross-examination in the very first line he has stated that he had been going to his duty, being employee of DC Office at Haripur, when met with the police party at 07:30 hours, where in his presence the I.O had made recovery of the crime weapon, however, while taking in juxtaposition contents of the recovery memo Ex.PW-2/1 with the stance offered by this witness during his cross-examination qua disclosure of weapon of offence by the appellant during interrogation in presence of this witness, the entire story appears to be concocted one. As per contents of recovery memo the appellant had disclosed about weapon of offence in presence of this witness whereas while appearing in the



witness box during his cross-examination this witness has stated that he had met with the police party on the way when he had been going to his duty in the morning at 07:30 hours. This witness further went on to say that as per recovery memo the pistol had been found wrapped in plastic bag while in his statement recorded before the I.O under Section 161 Cr.P.C he had failed to mention that yes the pistol was wrapped in plastic bag. He, during his cross-examination, has further admitted as correct that in the recovery memo Ex.PW-2/1 no specific place of recovery of pistol could have been mentioned by the Investigating Officer. Although this witness had tried his level best to conceal his relationship with the complainant party, however, after taxing queries, lastly he had admitted that his mother and Mubashir Nawaz were paternal cousins *inter-se*, which fact raises finger towards his being one of the interested witnesses and as such possibility of false statement against the appellant cannot be ruled out. Besides, this witness during his cross-examination admitted as

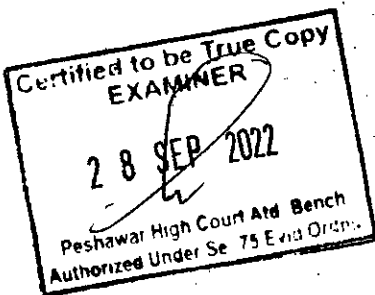


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correct that neither any number of pistol was mentioned in the recovery memo Ex.PW-2/1 nor in his statement recorded under Section 161 Cr.P.C but astonishingly on production of alleged crime weapon of offence in the court not only number had been found thereon but even company name had also been mentioned with bore.

6. Moreover, prosecution evidence has already been disbelieved in connected Cr.Appeal No. 113-A of 2021, in respect of weapon of offence. In such circumstances the prosecution cannot be held to have proved the factum of recovery of pistol, being owned and possessed by the appellant at the time of occurrence, beyond reasonable doubt. It is settled principle of law that even a single circumstance creating reasonable doubt is sufficient for acquittal of an accused. In this respect, reliance is placed on the judgment of Hon'ble Supreme Court of Pakistan in the case of "*Muhammad Khan and another v/s. The State*" reported as **1999 SCMR 1220**.

7. In view of what has been discussed above, this appeal is allowed. Conviction and



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sentence of the appellant recorded by the learned trial Judge is set-aside and he is acquitted of the charge levelled against him. He be released from Jail forthwith, if not required in any other case.

Announced:
13.09.2022.

J JUDGE

J JUDGE
Justice (as Attorney and Member of the Bar)

CS/

[Faint, illegible text in a rectangular box, possibly a stamp or a list of items.]

Certified to be True Copy
EXAMINER
28 SEP 2022
Peshawar High Court and Bench
Ghazipur

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Annex-J

To

The Worthy Inspector General of Police,
Government of Khyber Pakhtunkhwa,
Peshawar.

Sub: Application for the issuance of decision upon
Departmental Appeal vide Diary No. 10593/SB, dated
11-10-2022.

Respected Sir,

Most reverentially it is stated that the applicant preferred a Department Appeal vide Diary No. 10593/SB, dated 11-10-2022 against impugned rejection of Department Appeal by the worthy D.I.G, Hazara Region, Abbottabad dated 12-10-2020, the decision of which is still awaited inspite of passing a prolong period of one year. I preferred the Departmental Appeal on credit grounds with credible evidence but even then I have not yet been re-instated in service and consequently my innocent dependent family members are facing great financial hardships due to my unemployment.

It is therefore, requested that my above said Departmental Appeal may graciously be decided on the basis of facts and evidence available on the record in the greater interest of justice.

Thanking you,

Dated: 06-11-2023.

Applicant

(Signature)

(Muhammad Ghayas Qureshi)

Ex-Constable No. 249

District Police Haripur.

R/O Vilalge Kalas, P.O.

K.T.S, Tehsil & District Haripur.

Contact No. 0313-2513123

0312-5313993

Copy to:-

1. The Worthy Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Hon'able Registrar, Peshawar High Court Bench Abbottabad.

(Signature)

(Signature)

60

To

The Worthy Inspector General of Police,
Government of Khyber Pakhtunkhwa,
Peshawar.

Ref: Application dated 06-11-2023 sent through Courier Service.

Sub: Application for the issuance of decision upon Departmental Appeal vide Diary No. 10593/SB, dated 11-10-2022.

Respected Sir,

With due reverence it is submitted that the applicant preferred a Departmental Appeal which was received by this office vide Diary Number cited above, but inspite of passing a prolong period the decision of which has not yet been received.

The applicant has been declared as an innocent and decided the Criminal Appeal Nu. 113-A/2021 in his favour on 13-09-2022 by the Honourable Peshawar High Court Bench Abbottabad.

The applicant also submitted an application on 06-11-2023 to this Authority for the decision upon the Departmental Appeal but even then no decision has yet been received, hence the instant application is once again made before this Authority for decision please.

Thanking you,

Dated: 21-11-2023.

Applicant

M. Ghayas

(Muhammad Ghayas Qureshi)
Ex-Constable No. 249
District Police Office,
Haripur.
R/O Village Kalas,
P.O. K.T.S. Tehsil and
District Haripur.
Contact No. 0312-5313993

Copy to:

1. The worthy Chief Secretary, KPK, Peshawar.
2. The Honourable Registrar, Peshawar High Court Bench Abbottabad.

Attested
D. Qureshi

2. The Hon'able Registrar, Peshawar High Court Bench Abbottabad.

61

3rd Reminder

To

The Worthy Inspector General of Police,
Government of Khyber Pakhtunkhwa,
Peshawar.

Ref: Application dated 06-11-2023 sent through Courier Service.

Sub: Application for the issuance of decision upon Departmental Appeal
vide Diary No. 10593/SB, dated 11-10-2022.

Respected Sir,

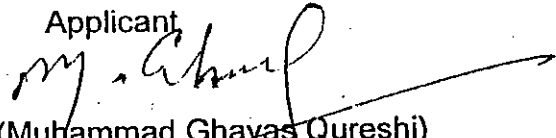
With due reverence it is submitted that the applicant preferred a Departmental Appeal which was received by this office vide Diary Number cited above, but inspite of passing a prolong period the decision of which has not yet been received.

The applicant has been declared as an innocent and decided the Criminal Appeal No. 113-A/2021 in his favour on 13-09-2022 by the Honourable Peshawar High Court Bench Abbottabad.

It is deemed necessary to mention that the applicant also submitted the applications on 06-11-2023 & 21-11-2023 to this Authority for the decision upon the Departmental Appeal, but even then no decision has yet been received, hence the instant 3rd application is once again submitted before this Authority for the requisite decision please.

Thanking you,

Dated: 28-12-2023.

Applicant

(Muhammad Ghayas Qureshi)
Ex-Constable No. 249
District Police Office,
Haripur.
R/O Village Kalas,
P.O. K.T.S. Tehsil and
District Haripur.
Contact No. 0312-5313993

Copy to:

1. The worthy Chief Secretary, KPK, Peshawar with the request to kindly issued the directions to the Authority concerned for submission of requisite decision on Departmental Appeal.
2. The Honourable Registrar, Peshawar High Court Bench Abbottabad.

Attested





62

No. 1455 RGL11668355 For Insurance Notices see reverse. Rs. Ps. 60
Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Received a registered* addressed to The Honorable Date Stamp

Initials of Receiving Officer RS *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) Rs. 100 (in words)

Insurance fee Rs. Ps. (in words) Weight Kilo Grams

Name and address of sender Ambohar



No. 1456 RGL11668356 For Insurance Notices see reverse. Rs. Ps. 60
Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

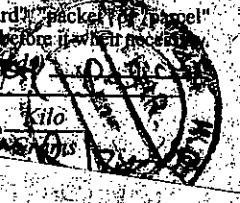
Received a registered* addressed to The Inspector Date Stamp

Initials of Receiving Officer RS *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) Rs. 100 (in words)

Insurance fee Rs. Ps. (in words) Weight Kilo Grams

Name and address of sender General



No. 1457 RGL11668357 For Insurance Notices see reverse. Rs. Ps. 60
Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

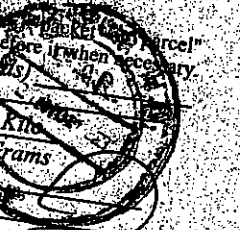
Received a registered* addressed to The Chief Date Stamp

Initials of Receiving Officer RS *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) Rs. 100 (in words)

Insurance fee Rs. Ps. (in words) Weight Kilo Grams

Name and address of sender Peyhaw



Insured

63

179
247

5332

007777
008855

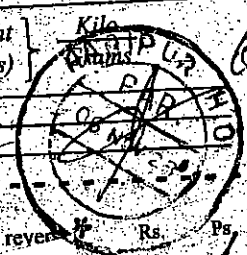
No. 1413 For Insurance No. RGL116954113 Rs. Ps.

For letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Received a registered* addressed to Honorable Date-Stamp

* Write here "letter", "postcard", "packet" or "parcel" initials of Receiving Officer with the word "insured" before it when necessary. Insured for Rs. (in figures) (in words)

Insurance fee Rs. Ps. (in words) Weight Kilo Grams Name and address of sender Restuare



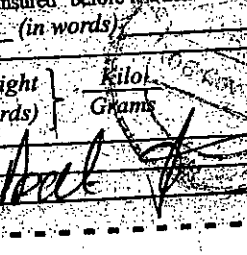
No. 1414 For Insurance Notices see reverse Stamps affixed except Rs. Ps.

For letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Received a registered* addressed to Honorable Date-Stamp

* Write here "letter", "postcard", "packet" or "parcel" initials of Receiving Officer with the word "insured" before it when necessary. Insured for Rs. (in figures) (in words)

Insurance fee Rs. Ps. (in words) Weight Kilo Grams Name and address of sender Abnatabel



64

No.77

RGL116954377

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. Ps. 60

Received a registered* addressed to The Chief Date-Stamp

*Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Initials of Receiving Officer S. G. ... (in words)

Insured for Rs. (in figures) 500 (in words)

Insurance fee Rs. 15 Ps. 15 Weight 20 Kilo Grams

Name and address of sender P. S. ... 2811210

No.78

RGL116954378

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. Ps. 60

Received a registered* addressed to _____ Date-Stamp

*Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary. Initials of Receiving Officer _____ (in words)

Insured for Rs. (in figures) _____ (in words)

Insurance fee Rs. 5 Ps. 5 Weight 10 Kilo Grams

Name and address of sender P. S. ... 2811210

No.79

RGL116954379

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. Ps. 60

Received a registered* addressed to The Honorable Date-Stamp

*Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary. Initials of Receiving Officer R. S. ... (in words)

Insured for Rs. (in figures) _____ (in words)

Insurance fee Rs. _____ Ps. _____ Weight _____ Kilo Grams

Name and address of sender A. B. ... 2811210

وکالت نامہ

بعد ازاں جناب محمد رفیق پٹیل جو کہ سرپرست پیشہ ورانہ اور
 منجانب ایڈووکیٹ

PPD/19P KPK etc محمد رفیق پٹیل

دعویٰ یا جرم سرپرست باعث تحریر آنکہ

مندرجہ بالا عنوان میں اپنی طرف سے بیرونی وجود ہی مقام مستاد / ایڈووکیٹ آوار
محمد اسلم پٹیل ایڈووکیٹ بدیں شرط وکیل مقرر کیا۔ کہ میں ہر پیشہ پر خود یا بذریعہ مختار خاص
 رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی
 پیشہ پر مظہر حاضر نہ ہوں۔ اور حاضری کی وجہ سے کسی وجہ پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ
 ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پٹنہ کے علاوہ کسی اور جگہ یا پٹنہ کے مقرر اوقات سے پہلے یا بروز
 تعطیل بیرونی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پٹنہ کے کسی اور جگہ سماعت ہونے یا بروز پٹنہ کے اوقات
 کے آگیا یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے رابطے کسی معاوضہ ادا کرنے مختار نامہ واپس کرنے کے
 بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ پروانہ صاحب مثل کردہ ذات خود منظور قبول ہوگا اور صاحب
 موصوف کو عرض دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل مگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق
 کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجرا کرنے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے
 کا ہر قسم کا بیان دینے اور سپروٹا لشی و راضی نامہ و فیصلہ برخلاف کرنے اقبال دعوے کا اختیار ہوگا۔ اور بصورت اپیل و
 برآمد کی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو
 بشرط ادا ہوگی علیحدہ بیرونی مختار نامہ کرنا مجاز ہوگا۔ اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا پٹنہ
 کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب
 موصوف کو۔ پوری فیس تاریخ پیشہ سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی بیرونی نہ
 کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا ہے کہ سند ہے مضمون
 مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا اور منظور ہے۔

مورخہ: 2024 - 23-04

السید السید السید
 Accept by
 M. Aslam
 (محمد رفیق پٹیل)
 ایڈووکیٹ