

IN THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA

In Ref:

Appeal No. : 255/2024

Shehzad Masih

Vs

I. G. Police and, others.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 17902

Dated 13-11-24

Application to place on file additional documents.

Respectfully Sheweth:

- 1) That the above maintained case is pending for adjudication before this Hon'ble Court and is fixed for 15. 11-2024
- 2) That the appellant has been acquitted by competent court, the order sheet of the same be allowed to be placed on file.

It is therefore humbly prayed that the appellant be allowed to place the additional documents on the main file.



Appellant

Through



Muhammad Kamran
Advocate High Court

Date: 12/11/2024

انڈیکس

بعدالت جناب محمد حنیف ایڈیشنل ڈسٹرکٹ اینڈ سیشن جج CPC کورٹ پشاور

مقدمہ نمبر	رجوعہ	اصل رجوعہ	فیصلہ	قطععات
103/CPA	25/10/24		30/10/24	50

سینئر جج

ڈسٹرکٹ جج

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نمبر	ملاحظہ	قطععات	زمنہ
1	1	1	انڈیکس
2	2/8	7	ڈسٹرکٹ
3	9	1	ہارج
4	10/44	35	مسئلہ جوڈیشل
5	45/48	4	درخواست 265
6	49/50	2	وکالت نامہ 7
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Countersigned
CPC

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Checked & Found Correct

Moharrar

بتتیب 11

کل قطععات 61

State Vs Shehzad Maseh FIR No. 1266

Order....
30/10/2024

1. Sr. PP for the state present. Accused Shehzad Maseh on bail along with counsel present. Complainant and victim are not in attendance.
2. On 28/08/2024, learned counsel for the accused facing trial submitted application for acquittal u/s 265-K Cr.PC in case FIR No. 1266 dated 07/09/2023 u/s 377 PPC/53 CPA of PS Tehkal. Notice of the same has already given to the prosecution.
2. Allegations against the accused are that on the relevant date and time, he attempted to commit carnal intercourse with the child victim Bilal aged about 10/11 years, hence the instant FIR.
3. Arguments heard and record gone through.
4. Perusal of record would reveal that charge in the present case was framed against the accused on 17/01/2024, with the direction for production of evidence to the prosecution. On 15/05/2024, process was returned by the DFC with the report that complainant party are Afghan refugees who were repatriated to their country and the report was also verified by one Rahmt Ullah S/O Abdur Rahim an elder of locality. Thus, there is no prospect of appearance of complainant in the near future and the attendance cannot be procured without an amount of delay and expense, therefore under no canon of law the accused can be locked into litigation for indefinite period which would also amount to leave him at the mercy of complainant. Even otherwise, as per record, the accused facing trial has been charged by the complainant in his statement recorded u/s 164 Cr.PC but no source of satisfaction has been given by the complainant while as per statement u/s 164 Cr.PC the child victim is deaf and dumb. No identification parade of the accused has been conducted through victim that whether the accused facing trial was the real

ATTEST
11/10/24
(Examiner)
Session Court Hashwar


30/10/2024
MUHAMMAD HANIF
ADJS & CLY
Muzaffargarh

culprit or otherwise. As per card of arrest and site plan, the arrest of accused astonishingly coincided with the preparation of site plan as at the time of preparation of site plan the accused was allegedly passing by and upon seeing him the child beheld him and alarmed the IO and the complainant, which story does not appeal to a prudent mind and also create serious dent in the prosecution case. So far as the medical report is concerned, though the medical report of the victim is positive but at the same time positive medical report does not mean that the act was committed by the accused facing trial. In the attending circumstances, when the very identification and the mode and manner of arrest is doubtful, the benefit must be extended to the accused as it is well settled principle of law that benefit of a single slightest doubt must go in favour of the accused. In the attending circumstances, the probabilities of conviction of the accused facing trial even if the evidence is recorded, are remote and bleak, therefore it is high time to invoke provision of section 265-K Cr.PC in order to avoid wastage of precious time of the court in an futile exercise.

6. Consequently, the application u/s 265-K Cr.PC is allowed; resultantly the accused facing trial Shehzad Maseh is hereby acquitted in the present case by extending him benefit of doubt. He is on bail, his bail bond stands cancelled while his sureties are discharged from the liabilities of bail bonds. Case property if any be kept intact till the period of appeal/revision and thereafter be dealt with in accordance with law.

7. File be consigned to record room after necessary completion and compilation.

Announced
30/10/2024


Muhammad Hanif
ASJ/Child Protection Court/JJC,
Peshawar
MUHAMMAD HANIF
AD&J/Child Protection Court/JJC,
Peshawar.

ATTESTED
11/11/24
(Examiner)
Session Court Peshawar

No. 66356		08/11/2024	
M. Kamran adv.		P-05	
Date of Delivery		11/11/24	11/11/24